

31 JULY 1946

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of
WITNESSES

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of
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(continued)

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236		Decision decided at Cabinet Meetings re Manchuria issued by the 2nd Section of the East Asia Bureau of the Foreign Ministry	2939	2939
237		Treaty between Japan and Manchoukuo concerning the Residence of Japanese Subjects, Taxation, etc. in Manchoukuo.	2944	2944

1 Wednesday, 31 July, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before with
16 the exception that MIYAKE, Shotaro is replaced by
17 MIYATA, Mitsuo as Counsel for the Accused UMEZU,
18 Yoshihiro.
19

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Does counsel desire to
4 mention any matter?

5 MR. LEVIN: Mr. President.

6 THE PRESIDENT: Mr. Levin.

7 MR. LEVIN: You will recall that yesterday
8 you made inquiry from Mr. Sutton as to whether or
9 not Dr. Bates had left Tokyo. On behalf of all defense
10 counsel, both Japanese and American, it is requested
11 that no witness be permitted to leave Tokyo unless
12 he has -- he is expressly dismissed by the Court.

13 THE PRESIDENT: It is understood that they
14 would be examined when they were here, that they
15 could leave Tokyo immediately after they had given
16 their evidence.

17 MR. LEVIN: Well, we are in this situation
18 in view of the ruling of the Court, of the Tribunal
19 rather, that these witnesses may not be examined on
20 new matter, that it may be we shall be unable to have
21 them when we desire them.

22 THE PRESIDENT: If it be necessary in the
23 interests of a fair trial, I have no doubt the Tribunal
24 will direct that he be brought back.

25 And as I am reminded, he could be examined

1 in China on commission or by way of interrogatories.
2 Both parties would have leave to administer inter-
3 rogatories. I should say all parties.

4 MR. LEVIN: The request is made particularly
5 in view of the fact that Dr. Bates was excused and
6 an application was made for the use of a document
7 or book from which he had testified which had not
8 been offered in evidence and which it is now proposed
9 to be used. And now the Doctor is no longer here.
10 I would like further to suggest that there may be
11 certain witnesses who might come from the United States
12 and elsewhere whom it would be almost impossible to
13 get at a future date.

14 THE PRESIDENT: At present we are not
15 able to say that you have been prejudiced by the
16 return of Dr. Bates to China because your position
17 will be protected by the Court, not only in his case
18 but others, if necessary.

19 Major Furness.

20 MR. FURNESS: Yesterday, if the Tribunal
21 please, I questioned the translation of exhibit No.
22 117. The prosecution, after conference with the
23 Language Section and the monitors, agrees that the
24 sixth line of that should read "against the possible
25 invasion by Soviet Russia" rather than "against the

1 possible invasion of Soviet Russia." I should have
2 said "Exhibit Number 217."

3 I also ask the prosecution to inform the
4 defense of the date and circumstances of preparation
5 and delivery of the document called "Summary of
6 Japanese War Crimes in China from 18 September 1931
7 to 13 August 1937" issued by the Ministry of Foreign
8 Affairs, Republic of China, marked for identification
9 as Exhibit 192. This entire exhibit is not in evi-
10 dence but excerpts are from time to time being offered;
11 and I now ask again whether that information is avail-
12 able to us.

13 THE PRESIDENT: Mrs. Llewellyn.

14 MRS. LLEWELLYN: May it please the Tribunal,
15 an attempt has been made this morning to procure the
16 information requested yesterday and we expect to have
17 it later in the day.

18 THE PRESIDENT: The information will be made
19 available to you later, Major Furness.

20 MR. FURNESS: Thank you.

21 THE PRESIDENT: (to MR. OHARA): You are
22 continuing your cross-examination.
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KASAGI

CROSS

1 R Y O M E I K A S A G I, called as a witness on
2 behalf of the prosecution, resumed the stand
3 and testified as follows:

4 BY MR. OHARA (Continued):

5 Q You have said that when you became connected
6 with the Self-Government Guiding Board, the organi-
7 zation of that Board had already been established.
8 Is that so?

9 A That is so.

10 THE PRESIDENT: Don't ask him things he has
11 already said and you don't want to contest.

12 Q Who made this Board?

13 A According to my imagination, I am of the
14 opinion that Mr. Yu Chung-han also took part in the
15 formation of this organization.

16 THE MONITOR: Correction: "According to my
17 assumption" instead of "imagination."

18 Q Who gave this Board its name?

19 A That I do not know.

20 Q Was not the purpose, the main purpose of
21 this Board the maintenance of peace and order?

22 A Since this took place directly after chaotic
23 conditions occurred there, I am inclined to think that
24 peace and order were the primary things that were in
25 the mind of those who formulated this policy.

KASAGI

CROSS

1 Q Did Manchurians and Japanese concur in this
2 opinion? In this policy, rather, did they give a
3 concurring opinion?

4 A Of course they gathered there since they
5 were agreed on this policy.

6 Q What was the reason for the concurrence of
7 Manchurians in this policy?

8 A I have not heard of that.

9 Q Have you ever heard that the reason for this
10 was that since it was after the chaotic situation
11 resulting from the incident, they wished to maintain
12 the general living standards of the people?

13 A I have not heard such a thing.

14 Q I believe that Japanese living in the Rail-
15 way Zone also agreed with the policies of this Board.
16 What was their reason for so doing?

17 A Since the situation was so chaotic, I believe
18 they were under the impression that, first of all,
19 peace and order must be established.

20 Q Then, according to your affidavit, you say
21 that this Self-Government Guiding Board sent two or
22 three members to guide policies in various prefectures.
23 What did these members do?

24 A Before the establishment of the Empire, they
25 were advisors. However, they too assumed their posts

KASAGI

CROSS

1 in order to bring about peace and order.

2 Q You say they were in the position of ad-
3 visors. Would you tell us in more detail their exact
4 functions?

5 A They were asked to give advice on the question
6 of the establishment of the Empire in general, --
7 drawing up the constitution.

8 THE MONITOR: In regard to the administration
9 of various hsiens or prefectures, they were consulted.

10 Q You say that most of the people working in
11 these capacities were Japanese and that all those in
12 responsible positions were Japanese. But, were not
13 Manchurians and Koreans included in this organization
14 in any way?

15 A Of course among those who were in the Guiding
16 Board there were Japanese, Koreans and other national-
17 ities. However, since the situation was chaotic, it
18 was not possible to fulfil the original plan and it
19 became very difficult to get to put proper men in
20 proper places.

21 THE MONITOR: Correction: "The original
22 plan on the part of the Guiding Board was to gather
23 together nameless and capable youth leaders from among
24 many races and try to coordinate their activities but
25 because of the chaotic conditions, they were not able

KASAGI

CROSS

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24 many races and try to coordinate their activities but
25 because of the chaotic conditions, they were not able

KASAGI

CROSS

1 to gather many leaders and Japanese and constitute
2 the majority of the leaders."

3 "Nameless" should be corrected to read "unknown."

4 Q You say that among these people many from
5 the Manchurian Youth -- Young Men's Association
6 entered, is that so?

7 A That is true.

8 THE PRESIDENT: Don't ask him a question like
9 that again. Don't ask him to repeat an answer.

10 MR. OHARA: I have used those words because
11 they were in the affidavit.

12 Q What kind of organization is this Manchurian
13 Young Men's Association? It is a political associa-
14 tion or is it an association with various principles,
15 and what were the principles and constitution of this
16 and platform of this association?

17 A I believe this organization existed for quite
18 a long time, had existed for quite a long time, and
19 I do not know the details of this organization.

20 Q Do you know that this was an association
21 made -- composed principally of members, of employees
22 of the South Manchurian Railway and that it was not
23 a political organization?

24 A It was not an organization composed mainly
25 of the employees of the South Manchurian Railway. It

KASAGI

CROSS

1 was an organization the members of which were mostly
2 from the Japanese residents in Manchuria. However,
3 as for the members occupying executive positions in
4 that organization, I believe they were, many of them
5 were from the South Manchurian Railway Company.

6 Q Anyway, then you admit that it is not a
7 political organization?

8 A I believe I can say so.

9 Q You say that the guiding, the leaders of
10 this organization were about a hundred and fifty
11 in number. Among these hundred and fifty were there
12 any who came from the GYOCHI SHA or the JIMMU KAI?

13 MR. MCKENZIE: I submit, if the Court please,
14 the figures in the affidavit are one hundred to one
15 hundred and twenty, not one hundred and fifty.

16 A I believe that figure of one hundred and
17 twenty-eight does not mean that there were only one
18 hundred and twenty executive posts. What that figure
19 denotes is that there were one hundred and twenty
20 in the headquarters of that organization. To the
21 best of my recollection, I believe there were two or
22 three from the GYOCHI SHA.

23 THE MONITOR: "And JIMMU KAI."

24 A (Continuing) I want to make a correction
25 there. What I mean to say is that there were two or

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CROSS

1 three who were formerly students under Mr. OKAWA.

2 Q Do you mean that they were simply -- that they
3 simply had been taught by Dr. OKAWA, that they were
4 not necessarily members of the GYOCHI SHA or the
5 JIMMU KAI?

6 A On that point my knowledge is not exact.
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1 Q Your affidavit says that this organization
2 worked for Manchurian independence and tried to
3 create an atmosphere in which such independence would
4 be achieved. Is that so? Did it work for such
5 purpose?

6 A On this point I wish to make a few remarks
7 here. In our opinion, we would like to look upon
8 this movement as the movement which originated on
9 the arrival of Mr. Henry Pu-yi. Mr. Henry Pu-yi
10 was a highly virtuous man and he had very high
11 qualifications as a man.

12 MONITOR: Correction: Mr. Pu-yi was a man
13 of noble character, instead of "virtuous."

14 INTERPRETER: And Manchuria was his birth-
15 place.

16 MONITOR: Correction: Manchuria was his
17 ancestors' home country.

18 A (Continuing) As a result I believe there
19 were many Manchurians who respected Mr. Henry Pu-yi
20 for this reason, and among the residents I was told
21 that there was not a few who had the picture of Mr.
22 Pu-yi on the walls of their homes. For these reasons
23 I believe it was only natural that the movement
24 started to establish an independent nation, with
25 such a man as the central figure. Naturally, the

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1 opinions and the wishes of the Japanese were also
2 respected and this movement took shape for these
3 reasons. Among the young men who took part in this
4 movement, and whom I knew well, I believe there were
5 none who resorted to violent action to bring about
6 their ends.

7 MONITOR: Correction: there were none who
8 carried out propaganda work or resorted to violence.

9 WITNESS: Although it was very short, the
10 remarks I have made describe the situation then.

11 Q Do you know whether many Manchurians agreed
12 with this and whether movements supporting this
13 policy sprang up in various districts?

14 A At the headquarters of the Guidance Board
15 we received such information.

16 Q Did not Manchurians fear that whenever civil
17 war occurred in China it would spread to Manchuria?

18 A There were such fears, and the atmosphere
19 then was extremely tense.

20 MONITOR: Correction: the atmosphere then
21 was very gloomy.

22 Q Then was the work of the Self-Government
23 Bureau to participate in the movements arising in
24 various districts and to help out the livelihood
25 of Manchurians?

KASAGI

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1 A Of course, inasmuch as the question of the
2 livelihood of the people was a very important one,
3 this matter was taken into due consideration.

4 Q Then you state in your affidavit that this
5 Board carried out propaganda fostering an atmosphere
6 favorable to independence, but do you not rather
7 mean that this Board helped an independent movement
8 that had already spontaneously broken out?

9 A As I have said before, with the lofty
10 character of Mr. Henry Pu-yi as the central figure
11 such a movement gradually took shape.

12 Q Concerning such movements, do you know
13 that there were no such mass movements in China?

14 A I believe there were such wishes among the
15 masses at that time.

16 Q You say that later the Self-Government
17 Guiding Board was merged in the Shiseikyoku. What
18 work did you do in the Shiseikyoku?

19 A At that time this Shiseikyoku, the Munici-
20 pal Government Bureau had no definite organization,
21 but gradually --

22 MONITOR: The Shiseikyoku was abolished even
23 before the organization of the office took shape, and
24 I was given an official notice that I would be ap-
25 pointed as chief of that bureau. However, I declined

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1 and recommended a Manchurian instead. Correction:
2 Shiseikyoku remained Shiseikyoku, and will you strike
3 out municipal administration, please?

4 Q It seems that you have worked in various
5 capacities in this Self-Government Guidance Bureau.
6 Did you work in order to make Manchuria a puppet
7 government of the Japanese?

8 A The young people whom we knew of were not
9 the type of people who would take advantage or make
10 use of or abuse the character of a person.

11 Q Then what was the idea of these people?
12 What kind of a country did they intend to establish
13 in Manchuria?

14 A There was the hope that a country bringing
15 together the five races in peaceful harmony be es-
16 tablished.

17 MR. McKENZIE: I object to the form of the
18 question, if the Court please. It seems to be en-
19 tirely irrelevant to the issues being tried here.

20 THE PRESIDENT: What I think he is trying to
21 ask is whether these young people worked in the in-
22 terest of Japan or in the interest of the people of
23 Manchuria. Such a question would be relevant.

24 MR. McKENZIE: It was my understanding as
25 to what government did they intend to set up, was

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1 what I objected to.

2 Q Please give me your answer.

3 A I meant to say that they hoped to es-
4 tablsh a country bringing together the five
5 races in peaceful harmony.

6 Q Yes, I know that. This phrase of harmony
7 of the five races is understandable to Japanese,
8 but it is difficult for foreigners to comprehend
9 what this phrase means. Therefore, as the Presi-
10 dent has just stated, I wish to ascertain whether
11 these young people were working solely for Japan
12 or whether they went to Manchuria really with the
13 idea of becoming a part of that land. Would you
14 clarify this point?

15 A Of course, being Japanese, they did think
16 of the welfare of Japan also. However, these young
17 people whom we knew went to Manchuria with the
18 express purpose of fulfilling their mission there,
19 and at the risk of their lives.

20 MONITOR: Correction: These young people
21 that we knew went to Manchuria with the idea of
22 spending their entire lives in Manchuria.

23 Q Then may I understand your definition of
24 five races living together in harmony as the
25 following, namely, that the five races living in

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CROSS

1 Manchuria should live in equality, each not in-
2 fringing upon the other's rights, and thus es-
3 tablish a fine and ideal state there?

4 A Of course, and in the writings or pamphlets
5 distributed by the organization, this point, namely,
6 the respect of other people's rights, et cetera,
7 was emphasized.

8 MONITOR: Correction: Of course it is
9 correct, and in the pamphlets published by the
10 Guiding Board there was a proclamation concerning
11 mutual respect and mutual love.

12 THE PRESIDENT: I think the cross-examination
13 is becoming repetitive now.

14 Q Then in your affidavit you say that after
15 leaving Changchun you returned to Dairen and that
16 you were forced to leave Dairen. What do you mean
17 by having been forced to leave Dairen?

18 A At first, perhaps I didn't express myself
19 very clearly. What I wanted to say was that al-
20 though I was not forcefully ejected from Dairen, I
21 had to leave Dairen because there were certain mis-
22 understandings about me and my actions.

23 Q You seem to have been very intimate with
24 Dr. OKAWA. What were your opinions -- how did your
25 opinions compare with Dr. OKAWA's regarding the

KASAGI

CROSS

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19 very clearly. What I wanted to say was that al-
20 though I was not forcefully ejected from Dairen, I
21 had to leave Dairen because there were certain mis-
22 understandings about me and my actions.

23 Q You seem to have been very intimate with
24 Dr. OKAWA. What were your opinions -- how did your
25 opinions compare with Dr. OKAWA's regarding the

1 establishment of the Manchurian state? Were they
2 in agreement with Dr. OKAWA's views, or were they in
3 wide divergence?

4 A After I left the Gyo Chi Sha I had very
5 few occasions on which to meet Dr. OKAWA, and there-
6 fore I was not able to exchange ideas on such a
7 question.

8 (Whereupon, Mr. OHTA, Kinjiro, approached
9 the lecturn.)

10 THE PRESIDENT: I will ask counsel not to
11 repeat questions already put.

12 MR. OHTA: I am OHTA, Kinjiro, counsel for
13 the defendant DOHIHARA, Kenji. I wish to conduct a
14 brief cross-examination.

15 CROSS-EXAMINATION (Continued)

16 BY MR. OHTA:

17 Q Was not DOHIHARA chief of the Special
18 Service detachment in Mukden only, and was not in
19 control of all Special Service activities in Harbin
20 and in all Manchuria?

21 A Concerning military organization, I have
22 not much knowledge. However, I believe Mr. DOHIHARA
23 was in command of the Special Service unit detachment
24 at Mukden.

25 Q My question was, was he chief solely of the

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1 Mukden detachment and had no connection with other
2 detachments?

3 A That is what I think.

4 Q What was DOHIHARA's attitude and policy
5 towards Manchurian officials and the Manchurian
6 people at large?

7 A I have not much knowledge on such things.

8 Q But since you yourself have stayed in Man-
9 churia a long time, and since you say in your
10 affidavit that you did receive all kinds of information
11 from DOHIHARA, would you not know even a little of
12 DOHIHARA's attitude towards Manchurian officials
13 and the people?

14 A I met Mr. DOHIHARA only once after I with-
15 drew from that Board and when I made mention of him
16 in my affidavit I was merely trying to say that a
17 message was received from the organization of which
18 Mr. DOHIHARA was the then head.

19 MONITOR: Correction: my reference to the
20 receiving of information was that I received various
21 information from the Special Service organ itself,
22 of which DOHIHARA was the chief.

23 THE PRESIDENT: Mr. Levin.

24 MR. LEVIN: No further cross-examination,
25 your Honor.

1 (Whereupon, the witness was excused.)

2 MR. MCKENZIE: If the Tribunal please,
3 I desire to turn the further prosecution over to Mr.
4 Darsey at this time.

5 THE PRESIDENT: Mr. Darsey.

6 MR. DARSEY: Mr. President, we offer IPS
7 document 1415 B, which is Minutes of the Cabinet
8 Conference Meeting. The document relates particularly
9 to foreign relations with the foundation of the new
10 Manchuria-Mongol State.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Document No. 1415 B
13 will receive exhibit No. 222.

14 (Whereupon, the document above re-
15 ferred to was marked prosecution's exhibit No.
16 222 in evidence.)

17 MR. DARSEY: May I read certain excerpts
18 therefrom, beginning with paragraph No. 1 on page 1.

19 (Reading) "(1) Towards the new state,
20 our Empire should render all sorts of aids as much
21 as possible in proper ways, instead of giving the
22 recognition based on International Public Laws for
23 the time being, and lead her to fulfill the sub-
24 stantial conditions for an independent state step by
25 step, and try to give the chance of her being

1 recognized internationally.

2 "(2) As to the relations between the new
3 state and our Empire, or the third countries, we
4 make her take the ways of respecting already pro-
5 vided treaties, and let her declare the plan of
6 keeping with the Open-door and Equal Opportunity
7 principles so as she can avoid the intervention of
8 powers.

9 "(3) The seizure of the customs houses
10 and salt-tax collecting organs by the new state should
11 be dealt with the consideration not to bring about
12 troubles in foreign relations, deliberating such
13 points as those that the international interests or
14 the organs above said are complicated and especially
15 DAIDEN customs being located in the area of our
16 government, the approval of its seizure will exert
17 an extremely unfavorable influence upon our Empire's
18 foreign relations."

19 THE PRESIDENT: That should be Dairen and
20 not "Daiden".

21 MR. DARSEY: Dairen is correct.

22 (Reading) "(4) We should make as much
23 efforts to establish factual contact with the new
24 state by unofficial ways as possible, (the procedures
25 of private law contract may be taken as principle,

1 and especially that of local agreement between our
2 despatched officials and the new state or her offi-
3 cials may be carried out), and try for the realiza-
4 tion and enlargement of our interests as well as for
5 the formation of actually accomplished status.

6 "(5) Regarding our seizure of real military
7 power, we should try to establish accomplished status
8 according to the right of subjugating bandits and
9 the policy of protecting Empire subjects which were
10 recognized by the League Council.

11 "(6) Regarding our grasp of real power on
12 foreign and home affairs, we should let her appoint
13 small number of Japanese as the officials or
14 councillors at first which may be enlarged gradually
15 later.

16 "(7) As soon as the policies of our govern-
17 ment are decided as described above, we should in-
18 form our despatched officials of the matter and make
19 them take their best efforts to lead the new state."

20 Skipping to the bottom of page 2, beginning
21 with the First Plan. (Reading) "First Plan. The
22 Customs organization in Manchuria may reserve its
23 present system but aside from the security for foreign
24 loans, the income from maritime customs throughout
25 Manchuria including DAIREN, should be seized by the

1 new state. A conference should be held with the
2 Customs General to approve this plan.

3 "Although the plan may be extremely dif-
4 ficult because of the relations between Nanking
5 Government and the new state, if this negotiation can
6 be concluded, the latter would be able to get all the
7 excesses of custom duty of Dairen which corresponds
8 to almost half of all the excesses in the Manchuria
9 customs. Moreover, it would bring about advantageous
10 results in foreign relations concerning the problem
11 of preserving the Chinese custom system.

12 "Second Plan. Seize all Manchuria customs
13 except that of Dairen but the income allotted as
14 security of foreign debts should be sent to the
15 Customs General or deposited in a bank in view of
16 respecting foreign security rights.

17 "The plan of establishing new custom sta-
18 tions on the border of the Kwantung Leased Territory
19 must not be carried out, as it will bring about the
20 problem of duplex taxation for the goods passing
21 through Dairen and consequently it may impose con-
22 siderable damage to Port Dairen and to South Man-
23 churian Railway and may cause unfavorable results
24 concerning other problems. In place of this plan,
25 the income allotted as security for foreign loans of

1 all customs in Manchuria except that of Dairen, would
2 not be sent to the Customs General or deposited in
3 the bank but would be taken by the new government to
4 balance the income of the Dairen custom, since the
5 excess income of Dairen should be the income of the
6 new state.

7 "Furthermore, in case the custom-stations
8 are seized, foreigners employed by the custom offices
9 who want to remain on the post shall be employed after
10 selection and should be re-employed after breaking
11 off with the Nanking government completely. (Pension,
12 etc. must be considered.) However, if the Nanking
13 Government opposes the seizure of customs by the new
14 state and dismiss Japanese officials (approximately
15 200) employed in the custom stations in China proper,
16 the new state can consider dismissing the foreigners
17 in the Manchurian customs and replace them with
18 Japanese.
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1 Skipping to page 5, beginning with:

2 "The Appointment of Japanese Officials by the
3 New State.

4 "On this subject, we should adhere to the con-
5 ception that the foundation of the New Manchuria-
6 Mongol State was the will of 30,000,000 people in North-
7 Eastern China, and it is necessary, for the future
8 development of the new country, to impress foreign
9 powers that Japan is not manoeuvring behind the new
10 state.

11 "The appointment of too many Japanese to pro-
12 minent positions as officials or councillors from the
13 beginning of the foundation of the new state may sti-
14 mulate the claim that the new state is nothing but a
15 proctorate of Japan. Theoretical explanations can deny
16 this but at any rate, realistically, it may impress
17 otherwise.

18 "And as to the control of the new state by
19 Japan, it can be carried out with military power for
20 the time being. It would be to the benefit of the new
21 state in her future foreign relations to increase the
22 number, formal capacity, and authority of the Japanese
23 in the new government organizations gradually.

24 "Therefore: The appointment of Japanese
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"To prominent positions of the new state

1 organization should be limited to as few as possible at
2 first, without hampering the administration of the
3 state. And thus we should not make it appear that
4 important government posts of the new state are exclu-
5 sively filled by Japanese. (It will be a worthy plan
6 to employ suitable foreigners other than Japanese as
7 officials or councillors of the new state.)

8 "Japanese government officials who want to
9 become officials of the new state should be appointed
10 after resigning from their previous government offices
11 and jobs."

12 MR. BROOKS: If the Tribunal please--

13 THE PRESIDENT: Captain Brooks.

14 MR. BROOKS: The defense would like to know
15 as to the date of this document. It does not appear
16 here. I don't think it shows on the original when
17 this was written. Also the source. I think it is very
18 material in consideration of this Court to know the
19 source of it, and if it was used, if it was discussed
20 and not put in and adopted.

21 I think those things are very apparent that
22 they should be asked. And the time element especially
23 is of special importance for it to be considered as
24 relevant material to be considered by this Court.

25 MR. DARSEY: I purposely had processed and

1 served on counsel for the defense, document No. 1415-A,
2 which gives the date of March 1, 1932. This document
3 which has been offered has integrity in and of itself
4 and is not dependent upon any other document for its
5 true meaning, full meaning and significance. We did
6 not offer 1415-A in evidence because we did not desire
7 to encumber the record with needless documentary evi-
8 dence.

9 THE PRESIDENT: Where did you get the document?
10 There is no certificate on it, Mr. Darsey. It might
11 shorten the proceedings by telling us where you got it.

12 MR. DARSEY: The certificate of authenticity
13 attached to the original shows the source as being
14 Foreign Ministry, Japanese Foreign Ministry.

15 THE PRESIDENT: Although the document was not
16 acted upon, of course, it is evidence in reading the
17 minds of Japanese authorities. I should say that even
18 if it were not acted upon it would have that purpose.

19 MR. BROOKS: I feel that this other document
20 that is discussed here, 1415-A, should be placed in
21 evidence. I thought it would surely be put in. And I
22 think the Court should know what is being discussed and
23 what time. Even though it may have been a plan pro-
24 posed by someone and had been considered by certain ones,
25 we ought to know who and in what connection it has to

1 do with these defendants. Just because they are Japan-
2 ese it does not mean they are guilty of the thoughts
3 of other Japanese, and they are named individually and
4 their trial is conducted towards individuals and toward
5 individual punishment. For that reason, the evidence
6 should be directed toward it.

7 THE PRESIDENT: The document is clearly
8 admissible because of its contents and that certificate.
9 The objection is overruled.

10 MR. DARSEY: We offer in evidence next IPS
11 document No. 1415-C. The document is: Minutes of the
12 Cabinet Council meeting relating to Manchukuo.

13 MR. LEVIN: May we inquire the date of that
14 document, please?

15 MR. DARSEY: Document shows on its face to be
16 dated April 11, 1932.

17 We have offered the document in evidence.

18 THE PRESIDENT: Admitted subject to the usual
19 terms.

20 DEPUTY CLERK OF THE COURT: Prosecution'
21 document No. 1415-C will receive exhibit No. 223.

22 (Whereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 223 for identification, and was received
25 in evidence.)

1 MR. DARSEY: I desire to read excerpts begin-
2 ning with the numbered paragraph in the middle of page 1.

3 THE PRESIDENT: Wait until all the judges
4 have their copies, Mr. Darsey.

5 MR. DARSEY: I am sorry.

6 "In order to solidify the foundation of the
7 state by establishing the financial and economic poli-
8 cies for the new state and to enhance its international
9 confidence, and furthermore, to realize a single self-
10 sufficient economic unit comprising Japan and Manchukuo
11 by effecting a rational control over the industries of
12 the two countries, authoritative leaders are required.
13 Concerning the above, it will be properly executed
14 through the following two measures after taking into
15 consideration the demands of the new state and its mis-
16 sions towards the Empire and all other situations:

17 "The new state shall employ authoritative
18 advisers from our country and make them the highest
19 advisers in connection with financial, economic and
20 general political problems.

21 "The new state shall appoint competent Japan-
22 ese nationals to the leading posts in the Privy Coun-
23 cil, the Central Bank, and other organs of the new
24 state.

25 "As regards the railroads and other means of

1 transportation of the new state, we shall hold real
2 power of management thereof in view of the national
3 defense and economic requirements of the Empire and the
4 new state. And as one of the concrete measures for
5 carrying the above into effect, one shall abide by the
6 Principles for Dealing with the **Railroads, Harbors and**
7 **Rivers** of Manchukuo mentioned in the other papers."

8 I next offer IPS document No. 1415-E, also
9 minutes of the Cabinet Council meeting under date of
10 May 3, 1932.

11 THE PRESIDENT: Admitted on the usual terms.

12 DEPUTY CLERK OF THE COURT: Prosecution docu-
13 ment No. 1415-E will receive exhibit No. 224.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 224 for identification, and was received
17 in evidence.)

18 MR. DARSEY: I desire to read certain excerpts
19 beginning with the top of page 1.

20 THE PRESIDENT: Mr. Darsey, wait until all
21 the judges get copies.

22 MR. DARSEY: (Reading) "The General Principle
23 of the Policy Concerning Construction of the KIRIN-
24 TUNGHUA Railway Extension Line. (Cabinet Decision,
25 May 3, 1932)

1 "And Concurrently, the Policy in Management of
2 the TIEN-TU Railway.

3 "Route Lines.

4 "Route lines to be adopted shall run from
5 TUNGHUA via CHU-TZU-KIA to NANYANG in KOREA: and another
6 shall branch off at CHIAO-YANG-CHUN passing through
7 LUNG-CHIN-TSUEN and ending at SHAM-SAN-PHON in KOREA.

8 "Management and the Construction Plan of the
9 TIEN-TU Railway.

10 "In order to construct the aforementioned
11 lines, the present TIEN-TU Railway shall be purchased
12 by the State of MANCHUKUO at a fair price, and the funds
13 needed for this purpose shall be credited by the South
14 Manchurian Railway Co. Moreover, the liabilities of
15 this railway against the Savings Department of the
16 Finance Ministry, TOTAKU (The Oriental Development Co.)
17 and others, shall be borne by the South Manchurian Co.
18 Purchase expenses shall be dealt as a loan made to the
19 State of MANCHUKUO by the South Manchurian Railway Co.

20 "The reconstruction of the TIEN-TU Railway
21 and the new line construction project are to be under-
22 taken by the South Manchurian Railway Co. Reconstruction
23 and construction expenses shall be treated as a loan
24 made to the State of MANCHUKUO by the South Manchurian
25 Railway Co."

1 Skipping to paragraph 4:

2 "Form of Management.

3 "The management of both lines shall be entrusted
4 to South Manchurian Railway Co. by the State of MAN-
5 CHUKUO."

6 Skipping to paragraph 6 on page 2:

7 "Management of Termini Facilities and Con-
8 necting Lines.

9 "The South Manchurian Railway Co. shall manage
10 the connecting lines in KOREA (TOL-MEN Line, CHEN-WEI
11 Line and the SHUENKEE-RASHIN Line), and its termini
12 facilities."

13 I next offer IPS document No. 1415-F.

14 THE PRESIDENT: This is a convenient break.
15 We will recess now for fifteen minutes.

16 (Whereupon, at 1045 a recess
17 was taken until 1105, after which the pro-
18 ceedings were resumed as follows:)
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1 MARSHALL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Darsey.

4 MR. DARSEY: Before the recess I tendered
5 IPS document No. 1415-F.

6 THE PRESIDENT: You did not explain it.
7 What is it?

8 MR. DARSEY: Minutes of the Cabinet confer-
9 ence meeting dealing with the development of aviation
10 in Manchoukuo.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1415-F will receive exhibit No. 225.

14 (Whereupon, prosecution's exhibit
15 No. 225 was received in evidence.)

16 MR. DARSEY: I desire to read the first
17 page of the document. Has it been distributed, Mr.
18 Clerk?

19 CLERK OF THE COURT: Yes.
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1 MR. DARSEY: (Reading)

2 "Imperial government, recognizing the ur-
3 gent necessity of acquiring aviation rights in Man-
4 churia and Mongolia, decided in the Cabinet conference
5 of 18th November 1930, to open negotiations with the
6 Chinese authorities concerning this matter. With
7 this decision, we repeatedly negotiated with the Chang
8 Hsueh-liang regime concerning the organization of an
9 aviation company under joint management of Japan and
10 Manchuria, but it could not be realized and the matter
11 was left untouched till the Manchurian Incident broke
12 out last September. After the outbreak of the Inci-
13 dent, the Imperial Government decided in the Cabinet
14 conference of 11th November last year to make the
15 Japan Air Transportation Company temporarily open the
16 regular Changchung-Dairen-Mukden air route and the
17 Soeul-Pinghsiang-Mukden route, on the pretext of
18 military communication and for the purpose of estab-
19 lishing the foundation for acquiring aviation rights
20 in Manchuria and Mongolia and at the same time in-
21 suring communications between Kwantung Army units.
22 Since, then, according to the above decision, we have
23 been meeting the immediate demands under the pretext
24 of military air service, but today when the surround-
25 ing situations have developed favorably for us with

1 the establishment of Manchukuo, we believe it is im-
2 portant that we turn the above military air service
3 into a standing business organ and give it permanency.
4 Furthermore, it is needless to mention that the manage-
5 ment of aviation in Manchuria and Mongolia should be
6 carried out in the best possible way with a view of
7 contributing to the execution of the Imperial aviation
8 policy, namely, the accomplishment of European-Asiatic
9 air line, the development of industries and the prepa-
10 ration of acquiring aviation rights in China proper,
11 etc. However, at the same time, considering the
12 special positions of and situations in Manchuria and
13 Mongolia, it shall be our greatest object to let the
14 plan meet the demand of national defense. Therefore,
15 while it is absolutely necessary for the above business
16 organ to be administrated under the perfect leader-
17 ship and supervision of the Imperial Government, on
18 the other hand, in view of our relations toward both
19 Manchukuo and other nations, it will be proper for us
20 to make this organ a joint company of Japanese and
21 Manchurians, a corporation in Manchukuo and the sub-
22 stantial leadership and supervision in our hands.
23 Moreover, from its original mission, the aviation
24 business will be expected to expand in the future,
25 but as it is necessary to realize it as easily and

1 speedily as possible, we shall at this time, open
2 business with subsidies supplied for the time being
3 by the Manchurian Government and the South Manchurian
4 Railway Company, and expect to take the following
5 steps.

6 "Organization Program.

7 "The fundamental policy for the institution
8 and management of the aviation enterprise in Manchu-
9 ria is to meet the demand of national defense of our
10 Empire and, at the same time, to contribute to the
11 advance of our nation's aviation enterprise and the
12 economical development of Manchukuo."

1 "Regarding the recent dispatch of a part of
2 the Chosen Army to Chientao, I understand the main
3 objective lies in the protection of Japanese residents
4 there. Accordingly, I believe it favorable for the
5 unification of our Manchurian policy that the general
6 administrative functions in Chientao be conducted
7 by the Manchukuo Government under the guidance of the
8 Kwantung Army, since Chientao at present has already
9 become a territory of Manchukuo. But, in view of the
10 historical relations between the Government-General
11 of Chosen and the said district as well as of the
12 peculiarities of the said district, the Kwantung
13 Army is ready to pay full respect to their opinions
14 and afford conveniences to them.

15
16 "I believe you have no objections that the
17 execution of our policies regarding the whole of
18 Manchukuo, under these circumstances, should, inso-
19 far as it involves negotiations with Manchukuo, be
20 left chiefly to the Kwantung Army for unified and
21 joint execution according to the measures decided
22 upon in the recent Cabinet Council. In view of the
23 recent conduct of Japanese Government offices and
24 various other representing organs in Manchukuo, how-
25 ever, I fear that unless we make it thoroughgoing,

1 confusion might arise. I seek your opinion about
2 this matter.

3 "A cipher telegram addressed to the Commander-
4 in-chief of the Kwantung Army from the War Minister
5 in reply to the previous message.

6 "In reply to your telegrams 'Ken-San' No.323 &
7 334, I agree in principle to your opinion regarding
8 unification in the execution of our Manchurian poli-
9 cies as well as to the policy of the Army under your
10 command regarding the Chientao question. Consider-
11 ing the actual state of affairs in that area as well
12 as its historical relations, however, I hope you
13 will keep in contact and cooperate with the various
14 organs concerned. Regarding matters relating to the
15 Supreme Command, instructions will be issued by the
16 Chief of the Army General Staff."
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1 The remainder of the document are the de-
2 tails of the organization.

3 We next offer IPS document No. 607 which is
4 "A Message Addressed to the War Minister from the
5 Commander-in-Chief of the Kwantung Army," and the
6 answer to that, too.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 607 will receive exhibit No. 226.

10 (Whereupon, prosecution's exhibit
11 No. 226 was received in evidence.)

12 MR. DARSEY: I desire to read the document.
13 "A Message Addressed to the War Minister from the
14 Commander-in-Chief of the Kwantung Army," dated
15 April 3, 1932.
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1 MR. LEVIN: Mr. President.

2 THE PRESIDENT: Mr. Levin.

3 MR. LEVIN: It appears that there is a refer-
4 ence to the telegrams No. 323 and 334. We would like,
5 in view of these telegrams, as I -- the telegram 323
6 is here, and reference is made to 334. We would like
7 to have the prosecution produce telegrams 334 if it
8 is available.

9 THE PRESIDENT: It rests entirely with the
10 prosecution to produce them, or let the defense do
11 so.

12 MR. DARSEY: Prosecution would also like to
13 have the telegram. We have so far been unable to
14 locate it.

15 We next offer IPS document No. 613 which is
16 a telegram "From the Chief of Staff of the Kwantung
17 Army to the Vice-Minister of War."

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 613 will receive exhibit No. 227.

21 (Whereupon, prosecution's exhibit
22 No. 613 was received in evidence.)

23 MR. DARSEY: I would like to read the
24 document.
25

1 "In view of the present situation of Manchukuo,
2 it is very natural and a matter of urgent necessity
3 that Manchukuo should take over at this time the
4 custom houses, including that at DAIREN. We con-
5 sider it a matter of urgent necessity to thoroughly
6 abide by the great policy of supporting Manchukuo,
7 to adopt the undermentioned Manchukuan opinions
8 to give tacit consent to its enforcement and to con-
9 sistently give her strong support.

10 "Furthermore, we must keep this matter ab-
11 solutely secret until its enforcement by Manchukuo.
12 Kindly note that the Governor of Kwantung Leased
13 Territory, acting Consul-General Morishima and
14 Director Fukumoto of the Dairen Customs House,
15 fully understand this.

16 "Particulars:

17 "1. Manchukuo's finance is now confronted
18 with a great difficulty in realizing the revenues
19 of 64 million yuan which had been originally estimated
20 at the time of the founding of the State, on account
21 of difficulties in maintaining peace and order. Since
22 this amount included custom revenues of 19 million
23 yuan and Opium Monopoly revenues of about 10 million
24 yuan, Manchukuo would find herself in a sad plight
25 with estimated expenditures of 93 million yuan, unless

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4 custom houses, including that at DAIREN. We con-
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8 to give tacit consent to its enforcement and to con-
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19 of 64 million yuan which had been originally estimated
20 at the time of the founding of the State, on account
21 of difficulties in maintaining peace and order. Since
22 this amount included custom revenues of 19 million
23 yuan and Opium Monopoly revenues of about 10 million
24 yuan, Manchukuo would find herself in a sad plight
25 with estimated expenditures of 93 million yuan, unless

1 these two items are speedily dealt with so as to
2 raise revenues.

3 "Accordingly, we have decided to take over
4 all the custom houses in Manchukuo, including that
5 of DAIREN, under the policy of guaranteeing treatment
6 and positions to their personnel, and of collecting
7 the customs revenues (marginal quotation in red ink:
8 The part securing foreign loans to be untouched)
9 except that part which secures foreign loans. Above
10 all, the amount of revenues of the DAIREN custom-
11 house constitutes about one-half of the total
12 customs revenues of (marginal notation in red ink:
13 the increase in revenues resulting from the seizure
14 of DAIREN custom house is 7 million Liang) whole
15 Manchukuo (24 million Haikuanlian) and is expected
16 to exceed by as much as 7 million Liang that part
17 of the customs revenues about 5 million Liang which
18 secures the foreign loans for which Manchukuo holds
19 herself responsible. Accordingly, even if Manchukuo
20 acquire the customs revenues of all the custom houses,
21 except that of DAIREN, she would be able to obtain
22 annually only 7 million Liang (four letters are
23 illegible), which would be unbearable to her. There-
24 fore it is intended to take over the DAIREN custom
25 house at all costs. However, if during this course

1 the Nanking Government should give in so as to agree
2 to the First Draft which was agreed upon by the United
3 Conference of the Five Provinces sometime ago, we are
4 ready to give consent to it.

5 "2. The method of taking over the DAIREN
6 custom-house is to have its personnel betray China
7 by joining Manchukuo. If the Chinese side should
8 despatch new personnel and attempt to collect the
9 customs separately and further attempt to shut down
10 all the custom houses in Manchukuo, we shall be
11 obliged to bring the Chinese endeavor in DAIREN to
12 naught through" -- Word blotted out. What is the
13 word? -- "intimidation by collecting customs at
14 Wafang-tien, etc. At the same time we intend to
15 oppose it, through arrangements made beforehand
16 by appointing simultaneously new personnel for all
17 the custom houses in Manchukuo, including that at
18 DAIREN.

19 "3. We hope that in case the Japanese
20 Government would maintain a friendly attitude by
21 giving tacit consent to Manchukuo's management of
22 the customs business in Dairen, and that she would
23 not interfere with Manchukuo's management of the
24 customs as the result of protests from China.

25 "We believe that Japan and Manchukuo

1 will not be placed in a disadvantageous situation
2 internationally even in the case of connivance, the
3 reasons being as follows:

4 "The first draft, which Manchukuo intends
5 to accept with great forbearance, preserves what
6 Maize calls 'customs integrity.' And as it is
7 rumored that Nanking is purposely opposing it and
8 obstructing a compromise in spite of no objections
9 on the part of Maize, Manchukuo's present resolution
10 is an unavoidable last resort. The fault is entirely
11 on the other side.

12 "If Japan does not give support, Manchukuo
13 will be obliged to begin collecting customs at
14 Wafangtien without taking into consideration the
15 damage to DAIREN. Accordingly, notwithstanding
16 the provisional agreement pertaining to the DAIREN
17 Customs, Japan will be obliged from the standpoint
18 of self-defense to give tacit consent to Manchukuo's
19 actions in DAIREN. Moreover, at the present time
20 when Japan has de facto recognized and supporting
21 Manchukuo, Japan should be able to regard the DAIREN
22 custom house as belonging to Manchukuo. Furthermore,
23 in case the personnel of the custom houses pledge
24 fidelity to Manchukuo, it is doubtful whether it can
25 be said that Japan is violating the Customs Agreement,

1 even if she should give tacit consent to Manchukuo's
2 actions.

3 "Public opinion will interpret as a matter
4 of course that Japan, which has de facto recognized
5 and is supporting Manchukuo, should assist in the
6 seizure of the DAIREN customs which are absolutely
7 necessary from the financial standpoint of Manchukuo.

8 "Manchukuo's financial position does not
9 permit her to wait for the departure of the Far
10 Eastern Enquiry Commission of the League of Nations.
11 Not only that, there is no need for Manchukuo to
12 feel, in the least, constrained toward the League
13 in taking urgently necessary financial measures,
14 which are only natural. It is rather advantageous
15 to take this emergency action during the stay of the
16 League's Enquiry Commission in order to display the
17 independence of Manchukuo, and to indicate the firm
18 resolution of Japan and Manchukuo in respect to the
19 Manchurian problem.

20 "4. In short, Manchukuo thinks that
21 China is continuing to illegally collect customs
22 because the DAIREN custom house happens to be lo-
23 cated in the Kwantung Leased Territory, in spite of
24 the fact that the DAIREN custom house, like the other
25 custom houses in Manchuria, should properly belong

1 to Manchukuo. If Japan should formally recognize
2 Manchukuo at once, and deliver the above mentioned
3 custom house to her, there should be no problem.
4 However, if the recognition of Manchukuo be delayed
5 under certain circumstances, it would be necessary
6 for her to give a great deal of support to Manchukuo.
7 (Not be shown to others.)"

1 THE PRESIDENT: It is noted that the tele-
2 gram was despatched and received on June 4, 1932.
3 It is just as well to have the dates of these docu-
4 ments in the record, Mr. Darsey.

5 MR. DARSEY: We next offer IPS document
6 No. 645 which is a "Telegram Despatched from the War
7 Minister to the Commander-in-Chief of the Kwantung
8 Army," dated June 10, 1932.

9 THE PRESIDENT: Admitted on the usual terms.

10 MR. McMANUS: Mr. President, may I inquire
11 at this time whether the matter contained in paren-
12 theses, just before paragraph one, was contained in
13 the original document?

14 THE PRESIDENT: What does it matter if it
15 went to the Commander of the Kwantung Army? Why
16 raise these trifles, Mr. McManus? We haven't
17 enough time to waste on those things.

18 MR. McMANUS: If your Honor pleases, my
19 client, General ARAKI, was War Minister at the time.
20 He was directly involved. And, if this has not been
21 contained in the original document, why, it is mere-
22 ly speculation on the part of the prosecutor as to
23 whom this document was sent, and I would like to ob-
24 ject to it on that ground and further on the ground
25 that it has not been or is not sufficiently identified.

1 THE PRESIDENT: Was your client Chief of
2 Staff of the Kwantung Army at that date?

3 MR. McMANUS: I beg your pardon, your
4 Honor?

5 THE PRESIDENT: He wants that correction
6 which is quite unnecessary for his purposes.

7 MR. McMANUS: No, he was not.

8 MR. DARSEY: I desire to read the document.

9 CLERK OF THE COURT: Just a minute, please.
10 Prosecution's document No. 645 will receive exhibit
11 No. 228.

12 (Whereupon, prosecution's exhibit
13 No. 228 was received in evidence.)
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1 MR. DARSEY: "We understand your views re-
2 lating to official recognition of Manchukuo, es-
3 pecially your awkward position in connection with the
4 guidance of Manchukuo, but as to the time of official
5 recognition, it has a very delicate bearing on various
6 circles at home and abroad, and therefore we are now
7 determined and ready to effect the recognition when-
8 ever opportunity offers.

9 "As regards unification of various organs in
10 Manchuria, we, taking into consideration the state
11 of affairs relative to the founding of Manchukuo and
12 various conditions at home and abroad emanating there-
13 from, especially relations with Soviet Russia, are
14 planning to establish a coordinating organ with the
15 Army as its center, among other things aiming at
16 the industrial development of Manchuria to meet with
17 requirements for the speedy stabilization of Man-
18 chukuo and national defense. Consequently, it is
19 not of such nature as to set up another government
20 organ over Manchukuo. For avoiding any misunder-
21 standing which may occur in the future among the im-
22 portant people of Manchukuo as a result of the car-
23 rying out of this plan, your every endeavor is
24 requested to convince them.

25 "It is still premature to discuss such

1 questions as administrative rights in the South Man-
2 churian Railway zone and the question of the Kwan-
3 tung Leased Territory. Should such underlying mo-
4 tive by any chance leak out at home or abroad, and
5 especially in foreign countries, it would be extremely
6 disadvantageous from the point of view of the di-
7 rection of Manchukuo. Therefore, we hope that you
8 will be very circumspect even in the study of the
9 matter in your own office."

10 Judge McKenzie will continue.

11 THE PRESIDENT: Judge McKenzie.

12 MR. McKENZIE: If the Tribunal please, I
13 desire to refer once again, and for the last time, I
14 believe, to the Lytton Report.

15 I desire to read small portions from Part II,
16 beginning at the bottom of page 97.

17 "Part II - The Present Government of
18 'Manchukuo'. 'Manchukuo' is governed in accordance
19 with an Organic Law and a Guarantee Law of Civil
20 Rights. The Organic Law prescribes the fundamental
21 organization of the governmental organs. It was prom-
22 ulgated by Ordinance No. 1 issued on March 9th, the
23 first year of Tatung (1932).

24 "The Regent is head of the State. All execu-
25 tive power is vested in him, and he has also the

1 authority to overrule the Legislative Council. He is
2 assisted by a Privy Council, which is to advise him
3 upon important affairs."

4 Then is described "The Executive Department,"
5 the last sentence in that paragraph, the top of page
6 98. "Executive power is thus largely concentrated in
7 the hands of the Premier and the Regent. The legisla-
8 tive power is vested in the Legislative Council."

9 Then it states that "At present, however,
10 no law has yet been passed for the organisation of
11 the Council."

12 And the end of the paragraph: "So long as
13 the Legislative Council is not organised, the Prem-
14 ier's position is predominant."
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1 Then it deals with the Judicial Department
2 and the Supervisory Department.

3 "The Supervisory Council supervises the con-
4 duct of officials and audits their accounts."

5 Then provinces and special districts.

6 "For purposes of local government, 'Manchukuo'
7 is divided into five provinces and two special dis-
8 tricts," naming them.

9 Passing to the last sentence in that para-
10 graph:

11 "Although the Commission made several re-
12 quests to be shown a map of the area claimed to be
13 included in the 'State of Manchukuo,' this was not
14 provided, but a letter was received giving the
15 boundaries of the 'State' as follows:

16 "'The new State is bounded on the south,
17 by the Great Wall, and the Mongol Leagues and Ban-
18 ners in the same comprise Hulinbair and the Leagues
19 of Cherim, Chaota and Chosatu and their Banners.'

20 "At the head of the provinces are Civil
21 Governors. But since it is desired to concentrate executive
22 power in the Central Government, they are to be
23 given no authority over either troops or finance."

24 Passing now to page 99, the first three
25 paragraphs:

1 "In the 'Government of Manchukuo,' Japanese
2 officials are prominent, and Japanese advisers are
3 attached to all important Departments. Although the
4 Premier and his Ministers are all Chinese, the heads
5 of the various Boards of General Affairs, which, in
6 the organization of the new State, exercise the greatest
7 measure of actual power, are Japanese. At first they
8 were designated as advisers, but more recently those
9 holding the most important posts have been made full
10 Government officials on the same basis as the Chinese.
11 In the Central Government alone, not including those
12 in local governments or in the War Office and the
13 military forces or in Government enterprises, nearly
14 200 Japanese are 'Manchukuo' officials.

15 "Japanese control the Board of General Affairs
16 and the Legislation and Advisory Bureaux, which in
17 practice constitute a Premier's Office, the General
18 Affairs Department in the Ministries and in the Pro-
19 vincial Governments, and the Self-Government Directing
20 Committees in the Districts, and the police depart-
21 ments in the Provinces of Fengtien, Kirin, and Heilung-
22 kiang. In most bureaux, moreover, there are Japanese
23 advisers, counsellors and secretaries.

24 "There are also many Japanese in the rail-
25 way offices and in the Central Bank. In the Supervisory

1 Council, Japanese hold the posts of Chief of the
2 Bureau of General Affairs, Chief of the Control Bureau,
3 and Chief of the Auditing Board. In the Legislative
4 council, the Chief Secretary is a Japanese. Finally,
5 some of the most important officials of the Regent
6 are Japanese, including the Chief of the Office of
7 Internal Affairs and the Commander of the Regent's
8 bodyguard."

9 Then it deals with the aims of the govern-
10 ment, and in next to the last paragraph:

11 "The policy of the Self-Government Guiding
12 Board, the chief agency in the creation of the new
13 Government, was continued by the Advisory Bureau,
14 which had superseded it."

15 Next follows a description in detail of the
16 new government; plans and laws with reference to
17 taxation, education, justice, and police; the army
18 and the methods for handling the banks and currency,
19 public utilities, Salt Gabelle, postal administration,
20 and customs revenue.

21 And in conclusion I should like to read the
22 comments on pages 105 and 106:

23 "Having thus described the organization of
24 the 'Manchukuo Government,' its programme, and some
25 of the measures it has taken to affirm its independence

1 from China, we must state our conclusions regarding
2 its operation and its principal characteristics.

3 "The programme of this 'Government' contains
4 a number of liberal reforms the application of which
5 would be desirable, not only in Manchuria, but also
6 in the rest of China; in fact, many of these reforms
7 figure equally in the programme of the Chinese Govern-
8 ment. In their interviews with the Commission, the
9 representatives of this 'Government' claimed that,
10 with the help of the Japanese, they would be able to
11 establish peace and order within a reasonable time
12 and would thereafter be able to maintain it permanently.
13 They expressed the belief that they would be able to
14 secure the support of the people in time by assuring
15 them an honest and efficient administration, security
16 from bandit raids, lower taxation as the result of
17 reduced military expenditure, currency reform, improved
18 communications and popular political representation.

19 But, after making every allowance for the
20 short time which has hitherto been at the disposal
21 of the 'Manchukuo Government' for carrying out its
22 policy, and after paying due regard to the steps
23 already taken, there is no indication that this
24 'Government' will in fact be able to carry out many
25 of its reforms. To mention but one example: there

1 seem to be serious obstacles in the way of the reali-
2 zation of their budgetary and currency reforms. A
3 thorough programme of reforms, orderly conditions
4 and economic prosperity could not be realized in the
5 conditions of insecurity and disturbed which existed
6 in 1932.

7 "As regards the 'Government' and the public
8 services, although the titular heads of the Depart-
9 ments are Chinese residents in Manchuria, the main
10 political and administrative power rests in the hands
11 of Japanese officials and advisers. The political
12 and administrative organization of the 'Government'
13 is such as to give to these officials and advisers
14 opportunities, not merely of giving technical advice,
15 but also of actually controlling and directing the
16 administration. They are doubtless not under the
17 orders of the Tokyo Government, and their policy has
18 not always coincided with the official policy either
19 of the Japanese Government or of the Headquarters of
20 the Kwantung Army. But in the case of all-important
21 problems, these officials and advisers, some of whom
22 were able to act more or less independently in the
23 first days of the new organization, have been con-
24 strained more and more to follow the direction of
25 Japanese official authority. This authority, in fact

1 by reason of the occupation of the country by its
2 troops, by the dependence of the 'Manchukuo Govern-
3 ment' on those troops for the maintenance of its
4 authority both internally and externally, in con-
5 sequence, too, of the more and more important role
6 entrusted to the South Manchurian Railway Company
7 in the management of the railways under the jurisdic-
8 tion of the 'Manchukuo Government,' and finally by
9 the presence of its consuls, as liaison agents, in
10 the most important urban centres, possesses in every
11 contingency the means of exercising an irresistible
12 pressure. The liaison between the 'Manchukuo Govern-
13 ment' and Japanese official authority is still further
14 emphasised by the recent appointment of a special
15 ambassador, not officially accredited, but resident
16 in the capital of Manchuria, exercising in his
17 capacity of Governor-General of the Kwantung Leased
18 Territory a control over the South Manchurian Railway
19 Company and concentrating in the same office the
20 authority of a diplomatic representative, the head
21 of the Consular Service, and Commander-in-chief of the
22 Army of Occupation.

23 "The relations between 'Manchukuo' and Japan
24 have hitherto been somewhat difficult to define, but
25 the latest information in the possession of the

1 Commission indicates that it is the intention of the
2 Japanese Government to define them before long. A
3 letter dated August 27th, 1932, addressed to the Com-
4 mission by the Japanese Assessor, states that the
5 Special Ambassador, General Muto, 'left Tokyo on
6 August 20th for Manchuria. On arrival he will com-
7 mence negotiations for the conclusion of a fundamental
8 treaty concerning the establishment of friendly rela-
9 tions between Japan and Manchuria. The Government of
10 Japan regards the conclusion of this treaty as a
11 formal recognition of 'Manchukuo.'"

12 I now desire, if the Court please, to read
13 from Exhibit 59, which was a basic document hereto-
14 fore offered in evidence, and it is offered for the
15 purpose of proving that the Assembly of the League of
16 Nations condemned Japan's action in Manchuria. I
17 desire to read portions and omit certain portions
18 of this report.

19 Beginning at the beginning:

20 "The following report was adopted by the
21 Assembly on February 24th, 1933.

22 "REPORT

23 "The Assembly, in view of the failure of
24 the efforts which, under Article 15, paragraph 3, of
25 the Covenant, it was its duty to make with a view

1 to effecting a settlement of the dispute submitted
2 for its consideration under paragraph 9 of the said
3 article, adopts, in virtue of paragraph 4 of that
4 article, the following report containing a statement
5 of the facts of the dispute and the recommendations
6 which are deemed just and proper in regard thereto.

7 "PART I.

8 "Events in the Far East. Adoption of the
9 first eight chapters of the Report of the Commission
10 of Enquiry. Plan of the Report.

11 "The underlying causes of the dispute be-
12 tween China and Japan are of considerable complexity.
13 The Commission of Enquiry sent by the Council to
14 study the situation on the spot expresses the view
15 that the 'issues involved in this conflict are not
16 as simple as they are often represented to be. They
17 are, on the contrary, exceedingly complicated, and
18 only an intimate knowledge of all the facts, as well
19 as of their historical background, should entitle
20 anyone to express a definite opinion upon them.'

21 "The first eight chapters of the report of
22 the Commission of Enquiry present a balanced, im-
23 partial and detailed statement of the historical
24 background of the dispute and of the main facts in
25 so far as they relate to events in Manchuria. It

1 would be both impracticable and superfluous either
2 to summarise or to recapitulate the report of the
3 Commission of Enquiry, which has been published
4 separately; after examining the observations communi-
5 cated by the Chinese and Japanese Governments, the
6 Assembly adopts as part of its own report the first
7 eight chapters of the report of the Commission of
8 Enquiry.

9 "It is necessary, however, to complete the
10 statement of the Commission of Enquiry by describing
11 the measures taken by the Council and the Assembly in
12 connection with the various phases of the dispute, as
13 well as certain events which do not appear in the re-
14 port of the Commission, more particularly those re-
15 lating to the origin of the hostilities which occurred
16 at Shanghai at the beginning of 1932. In regard to
17 these events, the Assembly adopts as part of its own
18 report the reports addressed to it by the Consular
19 Commission of Enquiry. These reports have been pub-
20 lished separately. The story of what happened in
21 Manchuria since the beginning of September 1932 must
22 also be related, since the report of the Commission
23 of Enquiry does not go beyond that date.

24 "This brief historical summary of the deve-
25 lopment of the dispute will be found in Part II of

1 the present report. It should be read in connection
2 with the narrative of events given in the report of
3 the Commission of Enquiry.

4 "Part III describes the chief characteris-
5 tics of the dispute and the conclusions drawn by the
6 Assembly from the essential facts.

7 "Part IV contains the recommendations which
8 the Assembly deems to be just and proper in regard
9 to the dispute.

10 "PART II.

11 "DEVELOPMENT OF THE DISPUTE BEFORE THE LEAGUE OF
12 NATIONS.

13 1. Summary of the Development of the Dispute.

14 "The decisions of the Council and of the
15 Assembly in the long period which has elapsed since
16 the dispute was first brought before the League of
17 Nations were determined by the evolution of the con-
18 flict in the Far East.

19 "At the outset, the incidents with which
20 the Council was called upon to deal when the dispute
21 was submitted to it by China under Article II occurred
22 at Mukden and in some other places in Manchuria; the
23 Council received repeated assurances from Japan that
24 she had no territorial designs in Manchuria and that
25 she would withdraw her troops within the South

1 Manchurian Railway zone, subject to the sole condition
2 that the safety of the lives and property of Japanese
3 nationals were assured. Such was the purport of the
4 resolution of September 30th and of the draft resolu-
5 tion of October 24th, 1931. The latter, which was
6 agreed to by all the Members of the Council except
7 Japan, enabled the Council once again to secure pledges
8 from the Japanese delegation.

9 "After the rejection of this draft resolu-
10 tion, Japan's insistence on the need of a settlement
11 of the fundamental questions which divided the two
12 countries led the Council, without prejudice to the
13 execution of the undertakings embodied in the resolu-
14 tion of September 30th, to put forward measures with
15 a view to a final and fundamental solution by the
16 two parties of the questions at issue between them.
17 On December 10th, 1931, the Council, acting on a pro-
18 posal made by Japan, decided to appoint a Commission
19 of five members with instructions to make an enquiry
20 on the spot and to report to the Council on "any cir-
21 cumstance which, affecting international relations,
22 threatens to disturb peace between China and Japan,
23 or the good understanding between them upon which peace
24 depends."
25

"Between December and March, however, there

1 was a considerable change for the worse in the situa-
2 tion in the Far East. Japanese troops completed the
3 occupation of South Manchuria and began to occupy
4 North Manchuria. Outside Manchuria a severe con-
5 flict involving Chinese and Japanese regular forces,
6 was begun and carried on at Shanghai. At the same
7 time, the reorganisation of the civil administration
8 in those parts of Manchuria occupied by the Japanese
9 troops resulted in the formation of an "independent
10 State" styled "Manchukuo", which did not recognise
11 Chinese sovereignty. The Council was henceforth
12 asked by China to deal with the dispute, not only
13 under Article II, but also under Articles 10 and
14 15 of the Covenant. On February 19th, 1932, as the
15 result of a request by China submitted under the
16 terms of Article 15, paragraph 9, the Council re-
17 ferred the dispute to the Assembly.

18 "From January onwards, pending the receipt
19 of the report of the Commission of Enquiry, without
20 which the substance of the dispute could not be
21 thoroughly examined, the chief concern of the Coun-
22 cil, and subsequently of the Assembly, was to do
23 everything in its power to stop hostilities and pre-
24 vent an aggravation of the situation, while preserv-
25 ing the rights of the parties and the principles of

1 the Covenant from suffering prejudice by reason of
2 any fait accompli. The Assembly by its resolution of
3 March 11th, defined the attitude of the League of Na-
4 tions towards the dispute. It declared that, pending
5 a settlement in conformity with the Covenant, it was
6 incumbent upon the Members of the League not to recog-
7 nise any situation, treaty, or agreement which might
8 be brought about by means contrary to the Covenant
9 of the League of Nations or to the Pact of Paris.

10 "The hostilities at Shanghai were brought
11 to an end, but fighting continued in Manchuria be-
12 tween Japanese forces or forces of the "Manchukuo"
13 Government and irregular Chinese forces. In Septem-
14 ber 1932, some days after the signing at Peiping of
15 the report of the Commission of Enquiry, there was
16 a further fundamental change in the situation: the
17 Japanese Government recognised the "Manchukuo" Govern-
18 ment.

19 "The report of the Commission of Enquiry
20 could not reach Geneva before the end of September --
21 namely, after the expiry of the time-limit of six
22 months laid down in the Covenant for the report of
23 the Assembly under Article 15. The Assembly, there-
24 fore with the assent of the parties, decided on July
25 1st to extend the time-limit for as long as might be

1 strictly necessary, on the understanding that such
2 extension should not constitute a precedent. The
3 Commission of Enquiry was thus able to complete its
4 report on the spot, the parties to submit their ob-
5 servations on the report, and the Council and Assem-
6 bly to examine all the material thus collected.

7 "The examination of this material and the
8 exchanges of views with the parties continued from
9 the middle of November 1932 to the beginning of Feb-
10 ruary 1933. After the discussions by the Council,
11 the Assembly endeavoured, but without success, to
12 bring about a settlement of the dispute by negotia-
13 tion between the parties under paragraph 3 of Article
14 15, on the basis of the information and conclusions
15 contained in the report of the Commission of Enquiry.
16 It has therefore adopted the present report in con-
17 formity with paragraph 4 of that article.

18 "Section 2. Origin of the Dispute before the League
19 of Nations. -- Events of September 18th - 19th, 1931,
20 in South Manchuria. -- First Discussions of the Coun-
21 cil."
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1 While this summary is brief and instructive,
2 the events referred to have been covered in Exhibit
3 57 of the Lytton Report, including the resolutions of
4 September 30 and December 10, 1931; so I shall omit
5 Sections 2 to 9, inclusive. Sections 7 and 8 deal
6 with Shanghai, and will probably be referred to by
7 Colonel Morrow.

8 Beginning with Section 10 on page 9:

9 "Discussions of the Assembly. -- Resolution
10 of March 11th. -- Decisions regarding the Time-limit
11 for the Preparation of the Report under Article 15.

12 "Meanwhile the Assembly, continuing its
13 examination of the dispute at Geneva, adopted, on
14 March 11th, 1932, after a full discussion, the follow-
15 ing resolution:"

16 This resolution was referred to and the con-
17 tents briefly stated on page 2 of the present report,
18 and is already in evidence as basic document, Exhibit
19 No. 56; and by reference hereto I desire to include
20 it in the record.

21 I desire to call particular attention and
22 read two paragraphs from the resolution, however.

23 Paragraph 4 on page 9:

24 "'Considering that the principles govern-
25 ing international relations and the peaceful settlement

1 of disputes between Members of the League above re-
2 ferred to are in full harmony with the Pact of Paris,
3 which is one of the corner-stones of the peace organi-
4 zation of the world and under Article 2 of which "the
5 High Contracting Parties agree that the settlement or
6 solution of all disputes or conflicts of whatever
7 nature and whatever origin they may be, which may
8 arise among them shall never be sought except by
9 pacific means"; "

10 At this time, if the Tribunal please, may I
11 refer to the fact that the Pact of Paris is also
12 already in evidence as a basic document, being
13 Exhibit No. 32, and by reference hereto to include it
14 in the record at this point. The other portion of
15 this resolution I desire to read is the first line of
16 Section 3, and the fourth paragraph:

17 "The Assembly,

18 "Decides to set up a Committee of nineteen
19 members -- namely, the President of the Assembly, who
20 will act as Chairman of the Committee, the Members of
21 the Council other than the parties to the dispute and
22 six other Members to be elected by secret ballot.

23 "This Committee, exercising its functions
24 on behalf of and under the supervision of the Assembly,
25 shall be instructed:"

1 And then follows the instructions to the
2 Committee to use further efforts to settle the dis-
3 pute.

4 Section 11, "The organization of 'Manchukuo' --
5 Recognition of 'Manchukuo' by Japan," has already been
6 covered in the Lytton Report.

7 Passing now to Section 12, "Consideration by
8 the Council of the Report of the Commission of Enquiry."

9 THE PRESIDENT: This is a convenient break.
10 We will adjourn now until half past one.

11 (Whereupon, at 1200, a recess was
12 taken until 1330, at which time the proceedings
13 were resumed as follows:)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

MR. COLE: Mr. President, my name is Cole,
and I am American counsel for the accused Akira MUTO.
I should like to refer briefly to an excerpt from the
Lytton Report read this morning by Mr. McKenzie. On
Page 106, approximately five lines from the bottom of
the page, there is a reference to General MUTO. With-
out intending to testify, I should like respectfully
to point out to the Tribunal that that is not the
accused General Akira MUTO but General Shingi MUTO
who is referred to.

THE PRESIDENT: I think you can trust the
Court to notice the distinction in the prenomens.

Judge McKenzie.

MR. McKENZIE: Continuing now where we left
off at noon with paragraph twelve on page eleven:
"12. Consideration by the Council of the Report of
the Commission of Enquiry.

"The report of the Commission of Enquiry
was signed at Peiping on September 4th, 1932, and was
communicated to the two Governments and to the Mem-

1 bers of the League on October 1st. The Japanese
2 Government asked for a minimum period of six weeks
3 in which to communicate its observations upon it to
4 the Council, and the Council decided on September
5 24th to begin its consideration of the report at
6 latest on November 21st.

7 "On this occasion, the President of the
8 Council (the representative of the Irish Free State,
9 Mr. de Valera) expressed regret -- with which the
10 Special Committee of the Assembly at its public
11 meeting on October 1st associated itself -- that,
12 before even the publication of the Commission's re-
13 port, Japan, not only by recognising but also by
14 signing a treaty with what was known as the "Man-
15 chukuo" Government, had taken steps which could not
16 but be regarded as calculated to prejudice the settle-
17 ment of the dispute. "For almost a year," Mr. de
18 Valera said, "the Council in its collective capacity
19 and the individual Governments which composed it had
20 scrupulously refrained from uttering any word of
21 judgment on the merits of this grave dispute on the
22 grounds that a Commission had been set up to investi-
23 gate the dispute in all its bearings and that, until
24 that Commission had reported, and its report had been
25 considered by the organs of the League, the whole

1 question was still to be regarded as sub judice."

2 "The Council, at meetings held from November
3 21st to 28th, 1932, considered the report of the Com-
4 mission and the observations of the parties. In re-
5 ply to a question by the President, Lord Lytton stated
6 on behalf of the Commission of Enquiry, that the latter
7 did not wish to add anything to its report.

8 "As regards the recommendations contained
9 in the report, the Council noted that it was not able
10 to find in the declarations of the Chinese and Japan-
11 ese representatives any measure of agreement between
12 the parties which would enable it usefully to engage
13 in a discussion and to submit observations or suggestions
14 to the Assembly.

15 "In these circumstances, the Council merely
16 transmitted to the Assembly the report of the Commis-
17 sion of Enquiry, the observations of the parties and
18 the Minutes of its meetings.

19 "13. Discussion of the Report of the Commission of
20 Enquiry by the Assembly. -- Attempt to Nego-
21 tiate a Settlement.

22 "The Assembly met on December 6th, 1932.
23 After a general discussion it adopted, on December
24 9th, the following resolution:

25 'The Assembly,

1 'Having received the report of the Commission
2 of Enquiry set up under the resolution adopted on
3 December 10th, 1931, by the Council, together with
4 the observations of the parties and the Minutes of
5 the Council meetings held from November 21st to 28th,
6 1932;

7 'In view of the discussions which took place
8 at its meetings from December 6th to 9th, 1932:

9 'Requests the Special Committee appointed under
10 its resolution of March 11th, 1932:

11 '(1) To study the report of the Commission of
12 Enquiry, the observations of the parties and the
13 opinions and suggestions expressed in the Assembly,
14 in whatever form they were submitted;

15 '(2) To draw up proposals with a view to the
16 settlement of the dispute brought before it under
17 the Council resolution dated February 19th, 1932;

18 '(3) To submit these proposals to the Assembly
19 at the earliest possible moment.'

20 "The Special Committee of Nineteen drew up
21 two draft resolutions and a statement of reasons in-
22 dicating generally the basis on which it thought it
23 possible to continue its endeavours to effect a
24 settlement of the dispute."

25 Then follows a draft of the two resolutions.

1 But, inasmuch as neither one proved satisfactory, I
2 shall merely refer to them and not read them. Passing
3 now to the large print in the first paragraph of the
4 second column on Page 13.

5 "On December 15th, the two draft resolutions
6 and the statement of reasons were submitted to the
7 parties. The Chinese and Japanese delegations pro-
8 posed amendments and the President of the Committee
9 and the Secretary-General were authorised to enter
10 into conversations with them. On December 20th, the
11 Committee decided to adjourn until January 16th, 1933,
12 at latest, in order to enable the conversations to
13 continue.

14 "14. Japanese Military Operations at Shanhaikwan
15 within the Great Wall.

16 "Early in January 1933 occurred the serious
17 incidents at Shanhaikwan. Situated at the extremity
18 of the Great Wall, halfway between Peiping and Mukden,
19 this city has always been regarded as of great strate-
20 gic importance. It is on the route followed by in-
21 vaders who, coming from Manchuria, wish to penetrate
22 into what is now the province of Hopei. Moreover,
23 from Hopei is the easiest route into Jehol, a province
24 which Japan regards as forming part of "Manchukuo".
25 It was from the north of Hopei that, according to

1 Japanese communications, Marshal Chang Hsueh-liang
2 was sending considerable forces into Jehol and that,
3 according to Chinese communications, the Japanese
4 Army intended to begin large-scale operations in
5 Jehol.

6 "A Japanese communication of December 29th,
7 1932, reported that during the last few days the mo-
8 bilisation of Chinese troops directed against Jehol
9 was especially marked. The Japanese delegation fur-
10 ther stated on January 4th, 1933, that the Japanese
11 authorities at Peiping had vainly endeavoured to
12 persuade General Chang to stop this movement of forces,
13 and that in these circumstances of "tension and anxiety"
14 an incident had occurred at Shanhaikwan on the night
15 of January 1st-2nd.

16 "Units of the Japanese army of Kwantung
17 passed the Great Wall and the town was attacked. It
18 was occupied on January 3rd.

19 "The Chinese Government asserts that, during
20 this operation, thousands of peaceful citizens were
21 slaughtered. It addressed a protest on January 11th
22 to the Powers signatories of the Protocol of 1901
23 against the unlawful advantage taken by Japan of a
24 special privilege claimed under the Protocol. It de-
25 clared that it could not assume any responsibility

1 for a situation resulting from the exercise by
2 Chinese defensive forces of their legitimate right to
3 resist the aggressive acts of the Japanese troops.

4 "15. Failure of the Procedure for Negotiating a
5 Settlement.

6 "The Committee of Nineteen met again on
7 January 16th, 1933. It noted that, though the con-
8 versations with the representatives of the parties
9 concerning the draft resolutions and the statement
10 of reasons framed by it had continued, no new propo-
11 sal had been received apart from the amendments sub-
12 mitted in December by the Chinese and Japanese dele-
13 gations. The Japanese delegation, however, had
14 stated that it was in communication with its Govern-
15 ment regarding new proposals which would be submitted
16 within forty-eight hours.

17 "The Committee received these proposals
18 on January 18th. It noted that they differed in
19 several fundamental points from those which it had
20 communicated to the parties on December 15th. As,
21 however, the Japanese delegation, when submitting the
22 new proposals of its Government, had specially empha-
23 sised that the latter attached great importance to
24 the stipulation that the body to be appointed for the
25 settlement of the dispute should include only Members

1 of the League, the Committee of Nineteen felt that,
2 if this were the only objection raised by Japan to
3 the texts which had been communicated, it should not
4 be impossible to settle the question in consultation
5 with the parties. It therefore asked for supplemen-
6 tary information, particularly on the point whether,
7 if this difficulty were overcome, Japan would be pre-
8 pared to accept the draft resolution No. 1 of December
9 15th. The Committee thought it should await the
10 Japanese reply on this point before continuing its
11 conversations with the Chinese delegation, whose pro-
12 posals did not differ so fundamentally as those of
13 Japan from the texts communicated to the two parties.

14 "On January 21st, the Committee noted that
15 the effects of the statements made by the Japanese
16 delegate to its Chairman and to the Secretary-General
17 was that the Japanese Government was not prepared to
18 accept draft resolution No. 1, even if the provision
19 that non-Member States be invited to participate in
20 the negotiations for a settlement were eliminated
21 from the draft.

22 "The Japanese delegation, in making these
23 statements, had submitted new proposals on behalf of
24 its Government.

25 "The Committee, after examining these pro-

1 posals, together with the amendments submitted by the
2 Chinese delegation to the Committee's texts of Decem-
3 ber 15th, could do no more than note that it was
4 impossible to frame a draft resolution acceptable to
5 the two parties. The importance attached by the
6 Chinese delegation and by the Committee itself to the
7 participation of the United States of America and of
8 the Union of Soviet Socialist Republics in the nego-
9 tiation of a settlement made it impossible to eliminate
10 at the sole request of Japan the provision concerning
11 the invitation to those States, if the Committee
12 must at the same time modify in the sense of the
13 Japanese proposals the other provisions of draft re-
14 solution No. 1.

15 "The Committee further noted that, even if
16 it agreed to transform the statement of reasons into
17 a declaration made by the Chairman on behalf of the
18 Committee, to which the parties would be free to sub-
19 mit reservations, the Japanese Government did not
20 accept the text established by the Committee on Dec-
21 ember 15th, but asked, in its new proposals, that
22 important amendments to the text should be made
23 which the Committee could not accept.

24 "In view of this situation, the Committee
25 of Nineteen noted that, after endeavouring to prepare,

1 posals, together with the amendments submitted by the
2 Chinese delegation to the Committee's texts of Decem-
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16 it agreed to transform the statement of reasons into
17 a declaration made by the Chairman on behalf of the
18 Committee, to which the parties would be free to sub-
19 mit reservations, the Japanese Government did not
20 accept the text established by the Committee on Dec-
21 ember 15th, but asked, in its new proposals, that
22 important amendments to the text should be made
23 which the Committee could not accept.

24 "In view of this situation, the Committee
25 of Nineteen noted that, after endeavouring to prepare,

1 in accordance with the mission entrusted to it, the
2 settlement of the dispute in agreement with the parties,
3 it appeared to it to be impossible to submit proposals
4 to that effect to the Assembly.

5 "The Committee, therefore, in execution of
6 the task entrusted to it under Part III (paragraph 5)
7 of the resolution of March 11th, 1932, has prepared
8 the present draft report as contemplated in Article
9 15, paragraph 4, of the Covenant.

10 "In deciding to begin the preparation of
11 this draft report, the Committee did not fail to point
12 out that the Assembly was alone competent to apply,
13 after the failure of the negotiations, the provisions
14 of Article 15, paragraph 4. The Committee therefore
15 remained at the disposal of the parties for any fur-
16 ther proposals they might desire to communicate to
17 it.

18 "On February 8th, the Japanese representative
19 submitted to the Committee further amendments to the
20 text prepared on December 15th. On February 9th, the
21 Committee, after considering these amendments, deemed
22 it desirable to ask for further information in regard
23 thereto, in particular whether the Japanese Government
24 accepted as one of the bases for the contemplated con-
25 ciliation Principle 7 in Chapter IX of the report of

1 the Commission of Enquiry regarding the establishment
2 in Manchuria of a large measure of autonomy consis-
3 tent with the sovereignty and administrative integrity
4 of China. This question was submitted to the Japanese
5 delegation in a letter of the same date.

6 "The Japanese Government replied on Febru-
7 ary 14th that it was convinced that the maintenance
8 and recognition of the independence of "Manchukuo"
9 were the only guarantee of peace in the Far East, and
10 that the whole question would eventually be solved
11 between Japan and China on that basis. In reply to
12 this communication the Committee, to its deep regret,
13 felt bound to hold that the Japanese proposals put
14 forward on February 8th did not afford an acceptable
15 basis for conciliation. It added that it was, of
16 course, willing to examine up to the date of the
17 final meeting of the Assembly any further proposals
18 which the Japanese Government might wish to make,
19 but that it was sure that the Japanese delegation
20 would realise that any aggravation of the existing
21 situation must render more difficult, if not indeed
22 frustrate, further efforts at conciliation.

23 "On the same date the Committee adopted
24 the draft of the present report."

25 Referring to Part III I desire to read the

1 first two sections and the first sentence in section
2 three.

3 "PART III.

4 "CHIEF CHARACTERISTICS OF THE DISPUTE.

5 "It will be seen from this review that for
6 more than sixteen months the Council or Assembly has
7 continuously tried to find a solution for the Sino-
8 Japanese dispute. Numerous resolutions have been
9 adopted based on various articles of the Covenant
10 and other international agreements. The complexity,
11 to which reference has already been made, of the his-
12 torical background of the events; the special legal
13 situation of Manchuria, where Japan, as will be noted
14 later, exercised within Chinese territory extensive
15 rights; finally, the involved and delicate relations
16 existing in fact between the Chinese and Japanese
17 authorities in certain parts of Manchuria justified
18 and rendered necessary the prolonged efforts of nego-
19 tiation and enquiry made by the League. However, the
20 hopes entertained by the Council and the Assembly of
21 an improvement in the situation, arising from the de-
22 clarations of the parties and the resolutions adopted
23 with their participation, were disappointed. The sit-
24 uation, on the contrary, tended to grow constantly
25 worse. In Manchuria, or other parts of the territory

1 of a Member of the League, military operations, which
2 the report of the Commission of Enquiry has described
3 as "war in disguise," continued and still continue.

4 "Having considered the principal features
5 of the dispute, the Assembly has reached, in particu-
6 lar, the following conclusions and noted the following
7 facts:

8 "1. The dispute between China and Japan
9 which is submitted to the Assembly originated in Man-
10 churia, which China and foreign Powers have always
11 regarded as an integral part of China under Chinese
12 sovereignty. In its observations on the report of
13 the Commission of Enquiry, the Japanese Government
14 contests the argument that the rights conferred on
15 Russia and subsequently acquired by Japan 'in the
16 extremely limited area known as the Southern Manchu-
17 ria Railway zone' conflict with Chinese sovereignty.
18 'They were, on the contrary, derived from the sover-
19 eignty of China.'

20 "The rights conferred by China on Russia
21 and subsequently on Japan derive from the sovereignty
22 of China. Under the Treaty of Peking in 1905, 'the
23 Imperial Chinese Government consented to all the
24 transfers and assignments made by Russia to Japan'
25 under the Treaty of Portsmouth. In 1915, it was to

1 China that Japan addressed demands for the extension
2 of her rights in Manchuria and it was with the Govern-
3 ment of the Chinese Republic that, following on these
4 demands, the Treaty of May 25th, 1915, was concluded
5 concerning South Manchuria and Eastern Inner Mongolia.
6 At the Washington Conference, the Japanese delegation
7 stated, on February 2nd, 1922, that Japan renounced
8 certain preferential rights in South Manchuria and
9 Eastern Inner Mongolia and explained that, 'in coming
10 to this decision, Japan had been guided by a spirit
11 of fairness and moderation, having always in view
12 China's sovereign rights and the principle of equal
13 opportunity.' The Nine-Power Treaty, concluded at
14 the Washington Conference, applies to Manchuria as
15 to every other part of China. Finally, during the
16 first phase of the present conflict, Japan never
17 argued that Manchuria was not an integral part of
18 China.

19 "2. Past experience shows that those who
20 control Manchuria exercise a considerable influence
21 on the affairs of the rest of China -- at least of
22 North China -- and possess unquestionable strategic
23 and political advantages. To cut off these provinces
24 from the rest of China cannot but create a serious
25 irredentist problem likely to endanger peace.

1 "3. The Assembly, in noting these facts,
2 is not unmindful of the tradition of autonomy exist-
3 ing in Manchuria."

4 Passing now to the last two sentences of
5 the first paragraph on Page 17.

6 "Through all its wars and periods of 'in-
7 dependence,' Manchuria remained an integral part of
8 China. Further, since 1928, Marshal Chang Hsueh-
9 liang has recognised the authority of the Chinese
10 National Government.

11 "4. During the quarter of a century end-
12 ing in September 1931, the political and economic
13 ties uniting Manchuria with the rest of China grew
14 stronger, while, at the same time, the interests of
15 Japan in Manchuria did not cease to develop."

16 Passing now to paragraph five.

17 "5. Before September 18th, 1931, each of
18 the two parties had legitimate grievances against the
19 other in Manchuria, Japan taking advantage of rights
20 open to question and the Chinese authorities putting
21 obstacles in the way of the exercise of rights which
22 could not be contested. During the period immediately
23 preceding the events of September 18th, various efforts
24 were made to settle the questions outstanding between
25 the two parties by the normal method of diplomatic

1 negotiations and pacific means, and these means had
2 not been exhausted. Nevertheless, the tension between
3 Chinese and Japanese in Manchuria increased, and a
4 movement of opinion in Japan advocated the settle-
5 ment of all outstanding questions -- if necessary,
6 by force."

7 Passing now to paragraph eight.

8 "8. The object of the provisions of the
9 Covenant of the League of Nations regarding the settle-
10 ment of disputes is to prevent the tension between
11 nations becoming such that a rupture appears to be
12 inevitable. The Commission of Enquiry found that
13 each of the issues between China and Japan was in
14 itself capable of settlement by arbitral procedure.
15 It is precisely because the accumulation of these
16 issues increased the tension between the two nations
17 that it was incumbent on the nation which regarded
18 itself as injured to draw the attention of the League
19 of Nations to the situation when diplomatic negotia-
20 tions were unduly protracted.

21 Article 12 of the Covenant contains formal
22 obligations as regards the pacific settlement of dis-
23 putes.

24 "9. Without excluding the possibility that,
25 on the night of September 18th - 19th, 1931, the

1 Japanese officers on the spot may have believed that
2 they were acting in self-defence, the Assembly cannot
3 regard as measures of self-defence the military opera-
4 tions carried out on that night by the Japanese troops
5 at Mukden and other places in Manchuria. Nor can the
6 military measures of Japan as a whole, developed in
7 the course of the dispute, be regarded as measures
8 of self-defence. Moreover, the adoption of measures
9 of self-defence does not exempt a State from comply-
10 ing with the provisions of Article 12 of the Covenant.

11 "10. Since September 18th, 1931, the ac-
12 tivities of the Japanese military authorities, in
13 civil as well as in military matters, have been mark-
14 ed by essentially political considerations. The pro-
15 gressive military occupation of the Three Eastern
16 Provinces removed in succession all the important
17 towns in Manchuria from the control of the Chinese
18 authorities, and, following each occupation, the civil
19 administration was reorganised. A group of Japanese
20 civil and military officials conceived, organised,
21 and carried through the Manchurian independence move-
22 ment as a solution to the situation in Manchuria as
23 it existed after the events of September 18th, and,
24 with this object, made use of the names and actions
25 of certain Chinese individuals and took advantage of

1 certain minorities and native communities that had
2 grievances against the Chinese administration. This
3 movement, which rapidly received assistance and
4 direction from the Japanese General Staff, could
5 only be carried through owing to the presence of the
6 Japanese troops. It cannot be considered as a spon-
7 taneous and genuine independence movement.

8 "11. The main political and administrative
9 power in the 'Government' of 'Manchukuo,' the result
10 of the movement described in the previous paragraph,
11 rests in the hands of Japanese officials and advisers,
12 who are in a position actually to direct and control
13 the administration; in general, the Chinese in Man-
14 churia, who, as already mentioned form the vast
15 majority of the population, do not support this 'Gov-
16 ernment' and regard it as an instrument of the Japan-
17 ese. It should also be noted that, after the Com-
18 mission of Enquiry completed its report and before
19 the report was considered by the Council and the As-
20 sembly, 'Manchukuo' was recognised by Japan. It has
21 not been recognised by any other State, the Members
22 of the League in particular being of opinion that
23 such recognition was incompatible with the spirit
24 of the resolution of March 11th, 1932.

25 * * *

1 "The situation which led up to the events
2 of September 18th, 1931, presents certain special
3 features. It was subsequently aggravated by the de-
4 velopment of the Japanese military operations, the
5 creation of the 'Manchukuo Government' and the recog-
6 nition of that 'Government' by Japan. Undoubtedly
7 the present case is not that of a country which has
8 declared war on another country without previously
9 exhausting the opportunities for conciliation provi-
10 ded in the Covenant of the League of Nations; neither
11 is it a simple case of the violation of the frontier
12 of one country by the armed forces of a neighbouring
13 country, because in Manchuria, as shown by the cir-
14 cumstances noted above, there are many features with-
15 out an exact parallel in other parts of the world.
16 It is, however, indisputable that, without any de-
17 claration of war, a large part of Chinese territory
18 has been forcibly seized and occupied by Japanese
19 troops and that, in consequence of this operation,
20 it has been separated from and declared independent
21 of the rest of China.

22 "The Council, in its resolution of Septem-
23 ber 30th, 1931, noted the declaration of the Japanese
24 representative that his Government would continue, as
25 rapidly as possible, the withdrawal of its troops,

1 which had already been begun, into the railway zone
2 in proportion as the safety of the lives and proper-
3 ty of Japanese nationals were effectively ensured,
4 and that it hoped to carry out this intention in
5 full as speedily as might be. Further, in its re-
6 solution of December 10th, 1931, the Council, re-
7 affirming its resolution of September 30th, noted
8 the undertaking of the two parties to adopt all mea-
9 sures necessary to avoid any further aggravation of
10 the situation and to refrain from any initiative
11 which might lead to further fighting and loss of
12 life.

13 It should be pointed out in connection
14 with these events that, under Article 10 of the
15 Covenant, the Members of the League undertake to re-
16 spect the territorial integrity and existing poli-
17 tical independence of all Members of the League.

18 "Lastly, under Article 12 of the Covenant,
19 the Members of the League agree that, if there should
20 arise between them any dispute likely to lead to a
21 rupture, they will submit the matter either to arbi-
22 tration or judicial settlement or to enquiry by the
23 Council.

24 "While at the origin of the state of tension
25 that existed before September 18th, 1931, certain

1 responsibilities would appear to lie on one side and
2 the other, no question of Chinese responsibility can
3 arise for the development of events since September
4 18th, 1931.
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1 "Statement of the Recommendations.

2 "This part sets forth the recommendations
3 which the Assembly deems just and proper in regard to
4 the dispute.

5 "Section I.

6 "The recommendations of the Assembly take
7 into account the very special circumstances of this case
8 and are based on the following principles, conditions
9 and considerations:

10 "(a) The settlement of the dispute should
11 observe the provisions of the Covenant of the League,
12 the Pact of Paris, and the Nine-Power Treaty of
13 Washington."

14 Then follows quotations from the applicable
15 sections of those documents which are already in
16 evidence.

17 Passing now to the last paragraph on page 19:

18 (Reading) "The Assembly has stated its
19 opinion that the principles governing international
20 relations and the peaceful settlement of disputes
21 between Members of the League above referred to are
22 in full harmony with the Pact of Paris. Pending the
23 steps which it might ultimately take for the settle-
24 ment of the dispute which had been referred to it,
25 it has proclaimed the binding nature of the principles

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22 in full harmony with the Pact of Paris. Pending the
23 steps which it might ultimately take for the settle-
24 ment of the dispute which had been referred to it,
25 it has proclaimed the binding nature of the principles

1 and provisions referred to above and declared that it
2 was incumbent upon the Members of the League not to
3 recognise any situation, treaty or agreement which
4 might be brought about by means contrary to the
5 Covenant of the League of Nations or to the Pact of
6 Paris.

7 "Lastly, the Assembly has affirmed that it
8 is contrary to the spirit of the Covenant that the
9 settlement of the Sino-Japanese dispute should be
10 sought under the stress of Military pressure on the
11 part of either party, and has recalled the resolutions
12 adopted by the Council on September 30th and December
13 10th, 1931, in agreement with the parties.

14 "In order that a lasting understanding may
15 be established between China and Japan on the basis
16 of respect for the international undertakings mentioned
17 above, the settlement of the dispute must conform to
18 the principles and conditions laid down by the
19 Commission of Enquiry in the following terms."

20 And then are listed the terms which the
21 Assembly thought would furnish a fair basis for the
22 settlement of the dispute.

23 Passing now to Section II on page 21:

24 (Reading) "The provisions of this section
25 constitute the recommendations of the Assembly under

1 Article 15, paragraph 4, of the Covenant.

2 "Having defined the principles, conditions
3 and considerations applicable to the settlement of
4 the dispute,

5 "THE ASSEMBLY RECOMMENDS AS FOLLOWS:

6 "1. Whereas the sovereignty over Manchuria
7 belongs to China,

8 "A. Considering that the presence of
9 Japanese troops outside the zone of the South Manchuria
10 Railway and their operations outside this zone are
11 incompatible with the legal principles which should
12 govern the settlement of the dispute, and that it is
13 necessary to establish as soon as possible a situation
14 consistent with these principles,

15 "The Assembly recommends the evacuation of
16 these troops. In view of the special circumstances
17 of the case, the first object of the negotiations
18 recommended hereinafter should be to organise this
19 evacuation and to determine the methods, stages and
20 time-limits thereof.

21 "B. Having regard to the local conditions
22 special to Manchuria, the particular rights and
23 interests possessed by Japan therein, and the rights
24 and interests of third States,

25 "The Assembly recommends the establishment

1 in Manchuria, within a reasonable period, of an organ-
2 isation under the sovereignty of, and compatible with
3 the administrative integrity of, China. This organ-
4 isation should provide a wide measure of autonomy,
5 should be in harmony with local conditions and should
6 take account of the multilateral treaties in force,
7 the particular rights and interests of Japan, the
8 rights and interests of third States, and, in general,
9 the principles and conditions reproduced in Section I
10 (c) above; the determination of the respective powers
11 of and relations between the Chinese Central Government
12 and the local authorities should be made the subject
13 of a Declaration by the Chinese Government having the
14 force of an international undertaking.

15 "Whereas, in addition to the questions
16 dealt with in the two recommendations 1A and 1B, the
17 report of the Commission of Enquiry mentions in the
18 principles and conditions for a settlement of the dis-
19 pute set out in Section I (c) above certain other
20 questions affecting the good understanding between
21 China and Japan, on which peace in the Far East depends,

22 "The Assembly recommends the parties to settle
23 these questions on the basis of the said principles
24 and conditions.

25 "Whereas the negotiations necessary for

1 in Manchuria, within a reasonable period, of an organ-
2 isation under the sovereignty of, and compatible with
3 the administrative integrity of, China. This organ-
4 isation should provide a wide measure of autonomy,
5 should be in harmony with local conditions and should
6 take account of the multilateral treaties in force,
7 the particular rights and interests of Japan, the
8 rights and interests of third States, and, in general,
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19 pute set out in Section I (c) above certain other
20 questions affecting the good understanding between
21 China and Japan, on which peace in the Far East depends,

22 "The Assembly recommends the parties to settle
23 these questions on the basis of the said principles
24 and conditions.

25 "Whereas the negotiations necessary for

1 giving effect to the foregoing recommendations should
2 be carried on by means of a suitable organ,

3 "The Assembly recommends the opening of
4 negotiations between the two parties in accordance
5 with the method specified hereinafter.

6 "Each of the parties is invited to inform
7 the Secretary-General whether it accepts, so far as it
8 is concerned, the recommendations of the Assembly,
9 subject to the sole condition that the other party also
10 accepts them.

11 "The negotiations between the parties should
12 take place with the assistance of a Committee set up
13 by the Assembly as follows."

14 And then follows a plan for setting up the
15 Committee and defining its powers.

16 Passing now to Section III on page 22:

17 (Reading) "In view of the special circum-
18 stances of the case, the recommendations made do not
19 provide for a mere return to the status quo existing
20 before September, 1931. They likewise exclude the
21 maintenance and recognition of the existing regime in
22 Manchuria, such maintenance and recognition being
23 incompatible with the fundamental principles of exist-
24 ing international obligations and with the good under-
25 standing between the two countries on which peace in

1 the Far East depends.

2 "It follows that, in adopting the present
3 report, the Members of the League intend to abstain,
4 particularly as regards the existing regime in Manchuria,
5 from any act which might prejudice or delay the carry-
6 ing out of the recommendations of the said report.
7 They will continue not to recognise this regime either
8 de jure or de facto. They intend to abstain from
9 taking any isolated action with regard to the situ-
10 ation in Manchuria and to continue to concert their
11 action among themselves as well as with the interested
12 States not members of the League. As regards the
13 Members of the League who are signatories of the Nine-
14 Power Treaty, it may be recalled that, in accordance
15 with the provisions of that Treaty: 'Whenever a
16 situation arises which, in the opinion of any one of
17 them, involves the application of the stipulations of
18 the present Treaty and renders desirable discussion
19 of such application, there shall be full and frank
20 communication between the contracting Powers concerned.'

21
22 "In order to facilitate as far as possible
23 the establishment in the Far East of a situation in
24 conformity with the recommendations of the present
25 report, the Secretary-General is instructed to commun-
icate a copy of this report to the States non-members

1 the Far East depends.

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23 the establishment in the Far East of a situation in
24 conformity with the recommendations of the present
25 report, the Secretary-General is instructed to commun-
icate a copy of this report to the States non-members

1 of the League who are signatories of the Pact of Paris
2 or of the Nine-Power Treaty, informing them of the
3 Assembly's hope that they will associate themselves
4 with the views expressed in the report, and that
5 they will, if necessary, concert their action and their
6 attitude with the Members of the League."

7 I now desire, if the Tribunal please, to
8 present and read from exhibit No. 65, which is a
9 document already in evidence, being Japan's notifica-
10 tion of withdrawal from the League of Nations. This
11 document is offered to prove Japan's withdrawal from
12 the League of Nations was because she was dissatisfied
13 with the Lytton Report and the action taken by the
14 League. For the information of defense counsel, it
15 was formerly IPS document No. 237. I desire to read
16 the last two paragraphs, beginning at the bottom of
17 page 1.

18 (Reading) "JAPAN'S NOTICE OF WITHDRAWAL
19 FROM LEAGUE. 27 March 1933.

20 "However, the majority of the Members of the
21 League evinced in the course of its deliberations during
22 the past seventeen months a failure either to grasp
23 these realities or else to face them and take them
24 into proper account. Moreover, it has frequently
25 been made manifest in these deliberations that there

1 exist serious differences of opinion between Japan and
2 these Powers concerning the application and even the
3 interpretation of various international engagements
4 and obligations including the Covenant of the League
5 and the principles of International Law. As a result,
6 the Report adopted by the Assembly at the special
7 session of 24 February last, entirely misapprehending
8 the spirit of Japan, pervaded as it is by no other
9 desire than the maintenance of peace in the Orient,
10 contains gross errors both in the ascertainment of
11 facts and in the conclusions deduced. In asserting
12 that the action of the Japanese Army at the time of
13 the Incident of 18 September and subsequently did not
14 fall within the just limits of self-defence, the
15 report assigned no reasons and came to an arbitrary
16 conclusion, and in ignoring alike the state of tension
17 which preceeded, and the various aggravations which
18 succeeded, the Incident -- for all of which the full
19 responsibility is incumbent upon China -- the Report
20 creates a source of fresh conflict in the political
21 arena of the Orient. By refusing to acknowledge
22 the actual circumstances that led to the foundation
23 of Manchukuo, and by attempting to challenge the
24 position taken up by Japan in recognizing the new
25 State, it cuts away the ground for the stabilization

1 of the Far Eastern situation. Nor can the terms laid
2 down in its recommendations -- as was fully explained
3 in the Statement issued by this Government on 25
4 February last -- ever be of any possible service in
5 securing enduring peace in these regions.

6 "The conclusion must be that in seeking a solu-
7 tion of the question the majority of the League have
8 attached greater importance to upholding inapplicable
9 formulas than to the real task of assuring peace, and
10 higher value to the vindication of academic theses
11 than to the eradication of the sources of future
12 conflict. For these reasons, and because of the pro-
13 found differences of opinion existing between Japan and
14 the majority of the League in their interpretation of
15 the Covenant and of other treaties, the Japanese
16 Government have been led to realize the existence of
17 an irreconcilable divergence of views, dividing Japan
18 and the League on policies of peace, and especially
19 as regards the fundamental principles to be followed in
20 the establishment of a durable peace in the Far East.
21 The Japanese Government, believing that in these cir-
22 cumstances there remains no room for further cooper-
23 ation, hereby give notice, in accordance with the
24 provisions of Article 1, Paragraph 3, of the Covenant,
25 of the intention of Japan to withdraw from the

1 League of Nations."

2 If the Tribunal please, I desire to turn
3 over the further prosecution to Mr. Sackett.

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1 THE PRESIDENT: Mr. Sackett.

2 MR. SACKETT: If the Court please, the in-
3 terrogations of the accused ARAKI on February 13 and
4 March 8 of this year are already marked for identi-
5 fication as exhibit Nos. 187 E and H respectively.
6 I desire to offer in evidence at this time IPS docu-
7 ment 1008, which contains excerpts from these in-
8 terrogations.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 1008 will receive exhibit No. 229.

12 (Whereupon, the document above referred
13 to was marked prosecution's exhibit No. 229
14 in evidence.)

15 MR. McMANUS: Has the Tribunal decided yet
16 whether these are admissible against ARAKI or against
17 the other accused as well?

18 THE PRESIDENT: The Tribunal has not yet de-
19 cided that question and may not decide it until it is
20 considering the whole of the evidence.

21 MR. FURNESS: Then I would like to enter the
22 objection of the defendant SHIGEMITSU to the admission
23 of these documents.

24 MR. SACKETT: I shall read this document.

25 THE PRESIDENT: We take it that each of the

1 accused other than ARAKI objects to the admission
2 of the evidence as against him.

3 MR. McMANUS: Of course, Mr. President, I
4 would like it understood that the defendant ARAKI
5 also objects to the admission of this document on the
6 grounds heretofore stated. I would like to renew it
7 at this time.

8 THE PRESIDENT: Mr. McManus' objection was
9 made on another ground and overruled.

10 MONITOR: Interpreting the words for counsel
11 KIYOSE, all the accused object.

12 MR. LOGAN: If the Tribunal please, may we
13 respectfully ask for a ruling on the admissibility of
14 this interrogation of each individual accused with
15 respect to all the others earlier than at the con-
16 clusion of all the evidence, because it will mean that
17 each accused will have to prepare his defense, based
18 on the assumption that all these interrogations may
19 be used against him, whereas if the Tribunal rules
20 that the interrogations of one accused are not in
21 evidence as against the others, it will eliminate all
22 that work?

23 THE PRESIDENT: I can give no undertaking,
24 but I am prepared to put the matter to my colleagues
25 at a convenient time.

1 MR. SACKETT: (Reading)

2 "Q Did you agree with the Foreign Minister
3 that Manchuria should be recognized as an independent
4 state?

5 "A Yes. The government at that time was in
6 order, and since it would be best to recognize their
7 independence while there was order in the government,
8 I thought it best to grant them independence.

9 "A Since the Manchurian Government proclaimed
10 themselves independent, I thought it best that they be
11 so. At the conference of the Big Three (Foreign,
12 Navy, and Army Ministers) when discussing recognition
13 of Manchuria as an independent state, I suggested that
14 we exchange ambassadors since Manchuria was an in-
15 dependent state.

16 "Q After the Foreign, Navy, and War Ministers
17 had agreed to recognize Manchuria, who proposed it
18 to the Cabinet?

19 "A The Foreign Minister.

20 "Q Was it discussed in the meeting thoroughly?

21 "A The discussion was as to when Manchuria
22 should receive recognition -- now or later.

23 "Q Who suggested that Manchuria should be
24 recognized immediately as an independent state?

25 "A The Kwantung headquarters put in a request

1 that we recognize immediately.

2 "Q That came to you?

3 "A It must have, and also to the Foreign
4 Minister.

5 "Q But you agreed with the Cabinet in its de-
6 cision to recognize Manchuria as independent on
7 September 15th?

8 "A Yes.

9 "Q Were all the Cabinet Members there?

10 "A Yes.

11 "Q Did all agree?

12 "A Yes.

13 "Q You set the date of September 15th as the
14 date to formally recognize Manchuria?

15 "A Yes. The date of agreement was in August.

16 "Q Did the Cabinet at this meeting discuss the
17 superiority of Japan's rights in Manchuria in com-
18 mercial and economic ventures?

19 "A At that time we must have discussed superior-
20 ity rights of Japan in commercial and economic enter-
21 prises.

22 "Q Did you at this Cabinet meeting discuss
23 the terms or contents of the treaty to be made be-
24 tween Japan and Manchuria?

25 "A We discussed the contents of the treaty.

1 I do not remember the contents.

2 "Q You did approve the contents of the treaty
3 later to be made between Japan and Manchuria?

4 "A Yes.

5 "Q That was at this Cabinet meeting?

6 "A Yes.

7 "Q Do you recall when the treaty was negotiated;
8 was it very shortly thereafter?

9 "A I think it might have been on September
10 15th. I am not sure.

11 "Q The terms or contents of the treaty between
12 Japan and Manchuria were the same as agreed in the
13 Cabinet in its meeting in August?

14 "A Yes.

15 "Q This was the same Cabinet meeting as that in
16 which it was agreed to recognize the independence of
17 Manchuria?

18 "A Yes.

19 "Q Do you recall who drew up the terms of the
20 treaty?

21 "A I think it was drawn up in the Foreign
22 Office.

23 "Q Did you have any suggestions?

24 "A I do not remember whether I did or not.

25 The treaty was drawn up after the Foreign, Navy, and

1 War Ministers discussed it.

2 "Q Was it drawn up in the Cabinet meeting?

3 "A I do not remember. I think afterwards.

4 "Q It was not drawn up in the Cabinet meeting
5 in August - it was drawn up after the Cabinet had
6 agreed on the contents of the treaty?

7 "A Yes.

8 "Q The treaty as drawn up, did not vary any
9 from what was agreed upon at the Cabinet meeting in
10 August?

11 "A No.

12 "Q And that was the same treaty that was
13 negotiated later with Manchuria?

14 "A Yes.

15 "Q General, were you responsible for the plan
16 of the Independent State of Manchukuo?

17 "A The Japanese Government recognized the in-
18 dependence of Manchuria. Therefore as a member of
19 the Cabinet I was responsible for it. The date was
20 15 September 1932."

21 MR. SACKETT: The prosecution next desires
22 to offer in evidence IPS document No. 621. This is
23 a covering letter from the Chief of Staff of the
24 Kwantung Army to the Vice War Minister, attached to
25 which is an outline for guiding Manchukuo.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's document
3 No. 621 will receive exhibit No. 230.

4 (Whereupon, the document above re-
5 ferred to was marked prosecution's exhibit No.
6 230 in evidence.)

7 MR. SACKETT: (Reading) "KWAN-SAN-MAN
8 Message No. 381. 3 November 1932.

9 "To: Vice Minister of War, YANAGIGAWA, Heisuke

10 "From: Chief of Staff, Kwantung Army, KOISO,
11 Kuniaki.

12 "Subject: Forwarding of Outline for Guiding MANCHUKUO.

13 "Since we have now obtained a concrete
14 program pertaining to the subject which we have pre-
15 viously been studying and working on, we are forward-
16 ing it as seen in the separate volume.

17 "The Principle of Leading Manchukuo.

18 "The Staff Section of the Kwantung Army.

19 This draft is a compilation of the Kwantung Army's
20 opinion towards the draft drawn by the Second Section
21 of the General Staff Headquarters, and NAGATA, Chief
22 of the Second Section who was in Manchukuo at that
23 time, attended this conference.

24 "(1) Policy.

25 "1. Manchukuo shall be supported and developed

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution's document
3 No. 621 will receive exhibit No. 230.

4 (Whereupon, the document above re-
5 ferred to was marked prosecution's exhibit No.
6 230 in evidence.)

7 MR. SACKETT: (Reading) "KWAN-SAN-MAN
8 Message No. 381. 3 November 1932.

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11 Kuniaki.

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14 program pertaining to the subject which we have pre-
15 viously been studying and working on, we are forward-
16 ing it as seen in the separate volume.

17 "The Principle of Leading Manchukuo.

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19 This draft is a compilation of the Kwantung Army's
20 opinion towards the draft drawn by the Second Section
21 of the General Staff Headquarters, and NAGATA, Chief
22 of the Second Section who was in Manchukuo at that
23 time, attended this conference.

24 "(1) Policy.

25 "1. Mancukuo shall be supported and developed

1 as an independent state which shall adapt herself to
2 our national policy and realize co-prosperity and
3 harmony between Japan and Manchukuo.

4 "2. The policy of Manchukuo in the future
5 shall nominally be a constitutional empire, but sub-
6 stantially it shall be autocratic. The participation
7 of the people in the legislature shall be carried out
8 by those who are selected by the Government.

9 "3. The establishment of the institutions
10 and improvement in the various departments of the state
11 of Manchukuo shall be performed as moderately as
12 possible.

13 "(2) The gist.

14 "1. The administration shall be backed for
15 the time being by inner leadership of the commander
16 of the Japanese Kwantung Army and shall be carried out
17 with officials of Japanese lineage as its leaders.
18 However, it must be provided that the officials of
19 Manchukuoan lineage shall outwardly assume charge of
20 the administration as much as possible, while officials
21 of Japanese lineage must satisfy themselves by
22 controlling its substance. In order to have the
23 aforesaid substance completed, the administrator
24 shall be a kind as in accordance to the people's
25 will, but the political authority of the king shall

1 not be recognized.

2 "2. Even when an organ of administration by
3 civilians is to be established by Imperial ordinance,
4 with aims of accomplishing the national policy of the
5 Japanese Empire towards Manchukuo, it shall be provided
6 that the commander of the Kwantung Army shall hold
7 concurrently the position of the chief of the organ.

8 "3. In order to put the officials of
9 Japanese lineage completely and substantially under the
10 control of the commander of the Army, the rights on
11 the personal affairs held by the commander of the Army
12 at present, shall be permanently maintained, shall be
13 executed strictly and properly. For the sake of
14 making the activities of the officials of Japanese
15 lineage advantageous, the central Government including
16 the respective ministries shall establish the prin-
17 ciple of centralizing administration in the General
18 Affairs Office; at the same time it shall appoint
19 promising officials to this office. It is necessary
20 that due attention be given in leading the Manchukuoan
21 officials of Japanese ancestry since, in future, their
22 circle might be inclined to be absorbed and involved
23 in political plots characteristic of the Chinese,
24 and finally in losing the ability of accomplishing
25 the whole national policy of the Empire.

1 "4. The guiding spirit in the establishment
2 of Manchukuo shall be based upon the principle of
3 racial harmony with its objective in practical moral,
4 which is in the attaining of wealth; security in
5 livelihood; moral cultivation and good household.

6 Education is to be carried out according to
7 the above principle, with emphasis being placed in
8 vocational education, especially in the promotion of
9 Vocational education below the secondary schools.

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1 "5. Economically, co-prosperity and co-existence,
2 in the true sense of the words, shall be the basic prin-
3 ciple and each race shall be given opportunities to find
4 their proper places. In regard to the economic system
5 of Manchukuo the good conventions and customs inher-
6 itant from the past shall be respected, and with the
7 addition of the national control to the present condi-
8 tion of economics trending towards and developing into
9 capitalism, it shall be guided in a proper way. In the
10 future, the system accompanying accomplishment of a
11 unit for an economic 'bloc' between Japan and Manchukuo
12 shall be kept according to the race coordinative to
13 Japan and Manchukuo.

14 "6. Armament shall be aimed in maintaining
15 public peace and order within the country and, shall be
16 only limited to a degree deemed necessary. Especially,
17 the army's individualistic and private characteristics
18 shall be dispensed with and the essence of a central-
19 ized command shall be realized.

20 "7. Diplomatically, although her attitude
21 towards China shall be non-interference in principle,
22 she shall adopt an anti-Chinese principle according to
23 the circumstances, and her attitude towards the Soviet
24 and the U.S.A. shall be the same as towards Japan. For
25 the time being, she shall advocate the Open Door Policy

1 and the policy of Equality in Opportunity and shall wel-
2 come foreign investment as long as there is no danger in
3 her national defense.

4 "8. In regard to the adjustment of relations
5 between Japan and Manchukuo, the following must be borne
6 in mind:

7 "A. Joint defense of both countries shall be per-
8 fected.

9 "B. In order to realize the economy of Japan and
10 Manchukuo into a single 'bloc', we must realize indus-
11 trially the idea of 'Fit industry for suitable locality'
12 both in Japan and Manchukuo with aim of abolishing the
13 mutual customs barriers. However, the national defence
14 industry shall be met with the demand of the above
15 article 'A'.

16 "C. The economy of Japan and Manchukuo shall aim
17 in the realization of the self-sufficing of both coun-
18 tries under the principle of co-prosperity and co-
19 existence; and at the same time must attempt advance
20 towards the scale of world industry.

21 "9. Although in principle, centralization of
22 powers is to be effected internally, it shall be possible
23 to omit or legislate articles according to circumstances,
24 and thus, the tradition of local autonomy shall be
25 respected as much as permissible. Home administration

1 aims chiefly at security in living and comfortable work
2 under the principle of agriculture and it shall never
3 be permitted in imitating wantonly, higher culture.

4 "10. According to the peculiarities connected
5 with the establishment of Manchukuo, and in view of the
6 situation, internally as well as externally, substantial
7 realization of racial harmony, together with adjustments
8 and repletion of the inspection system throughout the
9 country shall be effected, and under the direction of the
10 army, preventive measures shall be taken against polit-
11 ical and ideological movements for national destruction
12 which may arise from the inside or outside of the country.

13 "11. For some time, political parties and polit-
14 ical bodies shall not be permitted to exist and we do
15 not welcome the rise of political ideas among the people
16 but rather that we lead the general situation skillfully
17 according to the principle of 'Let the people follow
18 blindly.'

19 "12. The participation of officials of Japan-
20 ese lineage in administration shall not necessarily be
21 effected by their numbers; in short, its principle is
22 that the Japanese should occupy the key positions in the
23 administration. Therefore, besides the aforementioned
24 principle to centralize the General Affairs Office. We
25 must lead the trend in political affairs through control

1 of the Office of State Councillor by the Japanese
2 officials. Although the number in officials of Japanese
3 lineage in offices under the prefectural government are
4 to be limited to the minimum as in accordance to the
5 present system, we shall utilize the inspection system
6 as of Article 10 to keep watch, occasionally over local
7 tendencies. Participation by the Japanese in the fields
8 of industry shall be most welcomed due to its field
9 being different from that of the administration as men-
10 tioned above, and the principle of 'a right man in the
11 right place' shall be fairly adopted.

12 "We shall attach special importance to immi-
13 gration in the industrial fields besides those of agri-
14 culture according to the principle of 'fit industry for
15 suitable locality,' as mentioned in 'B' of 8.

16 "13. Racial struggle between Japan and Man-
17 chukuo is to be expected. Therefore, we must never
18 hesitate to wield military power in case of necessity,
19 although every effort must be made to prevent this con-
20 flict; and for this purpose the aforementioned occu-
21 pying of politically important posts, advocating econo-
22 mical co-prosperity and co-existence, and the estab-
23 lishing of the inspection system should be made.

24 "14. Present day Manchukuo must be lead by
25 emphasis laid in the maintenance and restoration of

1 public peace by the use of military and political
2 powers, and all departments in administration must be
3 concentrated and united to this single point."
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1 MR. SACKETT: Mrs. Llewellyn will proceed
2 from this point.

3 MR. BROOKS: I wish to enter an objection, if
4 the Court please.

5 THE PRESIDENT: Captain Brooks.

6 MR. BROOKS: On this exhibit placed in evi-
7 dence there appears the date of the message, 3 November
8 1932, and it says, "Forwarding of an Outline for
9 Guiding Manchukuo." The prosecution has attached to
10 that, excerpts from a War Minister's Confidential
11 Record concerning Manchurian Affairs, dated December 8,
12 1923. I think the date is supposed to be 1932.

13 THE PRESIDENT: Where is the original?

14 MR. BROOKS: On checking the original I think
15 it shows yet a different date. And I think that that
16 should be corrected and it is proper to object on
17 behalf of General KOISO that this is not the outline
18 forwarded and there has been some apparent error and
19 I do not wish the Court to be misled through error,
20 not intentionally but through error.

21 MR. SACKETT: If the Court please, I can
22 explain that very simply if I am given opportunity.

23 THE PRESIDENT: Well, explain it and save
24 time.

25 MR. SACKETT: The explanation is this, if

1 your Honor please: This document is a complete docu-
2 ment, and I am confident that the attached report is
3 the one referred to. The item -- the first three lines
4 on page 1 of the report do not appear on the report.
5 It is some translator's statement that that is the vol-
6 ume where these papers are filed in the War Ministry.
7 In other words, it will not be found, this item
8 "Excerpts from a War Minister's Confidential Record
9 Concerning Manchurian Affairs" will not be found on
10 the document. That is the translator's statement of
11 where it came from. I did not even read it.

12 THE PRESIDENT: We will only waste time if
13 we discuss the matter now. Mr. Sackett, you should
14 go into this matter and ascertain what is the fact.

15 MR. BROOKS: The only comment I have, your
16 Honor, is that it would be impossible for a man on the
17 third of November to send something that was only pre-
18 pared a month later. It would be impossible for him
19 to have forwarded it at that time.

20 THE PRESIDENT: You should be able to clear
21 it up during the next recess.

22 MR. SACKETT: If the Court please, I would
23 like to say that I have investigated this matter very
24 thoroughly and I am prepared to say it is an integral
25 document. I have already investigated it and I am

1 sure it is.

2 THE PRESIDENT: I am not clear about the posi-
3 tion.

4 MR. SACKETT: I shall be glad to make a fur-
5 ther report to the Court if it desires.

6 THE PRESIDENT: Well, make a further report.
7 But go into the matter again. Here is a date, 8 Decem-
8 ber 1923. That can hardly be correct.

9 Has the document a date? If so, what date
10 does it bear?

11 MR. SACKETT: If the Court please, the date
12 1923 is a typographical error. The date is December 8,
13 1932.

14 THE PRESIDENT: We will take that as being
15 the fact until the contrary appears.

16 MR. SACKETT: In the War Ministry's office
17 there is a large collection of various documents. The
18 collection is called "Confidential Record Concerning
19 Manchurian Affairs, dated December 8, 1923." Among
20 that collection is a particular document, being docu-
21 ment 621, with a covering letter which is dated
22 November 3, 1932. That is this particular document.
23 The reference at the top of the second page is to the
24 filing system and not this particular document.

25 THE PRESIDENT: As two of my colleagues point

1 out to me obviously it is so, that the telegram could
2 not have preceded the document itself. The telegram
3 refers to the document. But according to the date
4 you now give, Mr. Sackett, the document did not come
5 into existence for a month after the telegram.

6 I think this is a matter that should be
7 straightened out by Major Moore and the chief Japanese
8 counsel for the defense, Dr. KIYOSE, during the recess.

9 We will recess now for fifteen minutes.

10 (Whereupon, at 1445, a recess was
11 taken until 1500, after which the proceed-
12 ings were resumed as follows:)

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1 MARSHALL OF THE COURT: The Tribunal is now
2 resumed.

3 MR. SACKETT: If the Court please, I think
4 Major Moore is prepared to make a statement with
5 reference to the document.

6 THE PRESIDENT: Major Moore, Chief of the
7 Language Section.

8 LANGUAGE ARBITER (Major Moore): The section
9 of the document which bears the date 8 December,
10 1932 should be at the head of the document. It seems
11 to have been a date for collection of documents.
12 Immediately following that comes the section which is
13 dated the 3rd of November, 1932. Following that comes
14 the words "The Principle of Leading Manchukuo," the
15 date, 27 October, 1932, Staff Section, Kwantung Army.

16 This, Mr. President, should reconcile the
17 dates.

18 MR. BROOKS: The prosecutor has just told me
19 that this December 8, 1932 was never on that part
20 Major Moore just talked about. If the Tribunal
21 please, I will try, if possible, to straighten out
22 and find out what the accurate date is and raise this
23 question at a later time. And, in order to have
24 assistance in doing that, I would ask the prosecution
25 if, in the first paragraph there where it says "This

1 draft is a compilation of the Kwantung Army's opinion
2 towards the draft drawn by the Second Section of the
3 General Staff Headquarters," and so forth, if they
4 have that draft drawn by the Second Section of the
5 General Staff, if they would make it available or
6 tell me where I could get it, I would be glad to
7 study that and try to arrive at whether this is proper
8 evidence to be presented in Court, and present an
9 objection against its being presented.

10 THE PRESIDENT: Major Moore's explanation
11 appears satisfactory.

12 Mrs. Llewellyn.

13 MRS. LLEWELLYN: May it please the Tribunal,
14 Mr. President, answering the inquiry made yesterday
15 by defense counsel regarding a Court exhibit No.
16 192, namely, one, the date of the preparation of the
17 summary, and, two, the circumstances under which it
18 was prepared, the prosecution desires to state that
19 the Chinese Associate Counsel advises that the summar-
20 ies were prepared on various dates following the hap-
21 pening of the event, between September 18, 1931 and
22 August 13, 1937.

23 The Chinese Foreign Office prepared these
24 summaries for official use. A compilation of the
25 summaries was supplied early in April, 1946 to the

1 International Prosecution Section pursuant to our
2 request. We are advised that they were prepared for
3 general use and not for use in this case.

4 The summaries were bound into a volume on
5 the cover of which is the official seal of the
6 Foreign Office.

7 MR. FURNESS: I will study the volume with
8 that in mind. I have inspected it already. It ap-
9 peared to be one continuous volume, not separate
10 things prepared at different times. There is no
11 doubt whatever that it is a series of summaries,
12 practically argument, referring to messages, and I
13 think it would be much better to file the documents
14 on which it is based rather than submit summaries to
15 this Court.

16 I would like to point out, too, that to
17 merely say that it was prepared for official use or
18 general use gives us very little information. It
19 must have been prepared for some specific use, I
20 should think.

21 THE PRESIDENT: Well, if the defense desires
22 to tender the documents that are summarized, I am
23 sure the Tribunal will give every assistance in its
24 power.

25 MR. FURNESS: I believe, sir, that the

1 prosecution would find it much easier to obtain them
2 than we would.

3 THE PRESIDENT: Mrs. Llewellyn.

4 MRS. LLEWELLYN: May I proceed?

5 THE PRESIDENT: Yes.

6 MRS. LLEWELLYN: The prosecution offers in
7 evidence its document 1014-C. This is a Cabinet de-
8 cision of 9 December, 1932 concerning "Matters Relat-
9 ing to the Telegraph and Telephone Enterprises in
10 Manchuria."

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1014-C is given exhibit No. 231.

14 (Whereupon, prosecution's exhibit
15 No. 231 was received in evidence.)

16 MRS. LLEWELLYN: We offer this document to
17 prove that Japan planned to dominate Manchuria by
18 deciding at Cabinet meetings in Tokyo to control the
19 communication system of that country.

20 "The fundamental policy of wire, wireless,
21 telegraph, telephone, and broadcasting enterprises
22 in Manchuria lies in its coincidence with the carry-
23 ing out of national policy, especially with demands
24 of national defense as well as in contributing to
25 cultural and economic development of Manchuria. In

1 order to accomplish these purposes, a treaty relating
2 to the establishment of a Japanese-Manchurian joint
3 enterprise under both Japanese and Manchurian super-
4 vision, and which will establish and operate the
5 wire, wireless telegraph, telephone and broadcasting
6 work in Kwantung Province, the Manchurian Railway
7 zone, and Manchuria shall be concluded between Am-
8 bassador Plenipotentiary MUTO, and delegates of the
9 Manchurian Government."

10 Dropping now to paragraph 4, I would like
11 to point out:

12 "The Japanese and Manchurian governments
13 shall supervise the company's business.

14 "Note: Supervision of the Japanese Gov-
15 ernment with regard to the company shall be done
16 by the Governor-general of Kwantung province in
17 general application. It is the same in the
18 following:

19 "The approval of both governments is
20 necessary to change the company's contract, the
21 flotation of company loans, the altering of the
22 decision of charges, the disposal of profits, the
23 decision relating to the affiliation and disso-
24 lution, the business scheme of each business year,
25 the concluding of a contract with other communi-

1 cating companies, and the transfer or establish-
2 ment of mortgages on the property. It is also
3 necessary to obtain the approval of the govern-
4 ment concerned regarding nomination or release of
5 directors.

6 "The Japanese and Manchurian governments
7 may give necessary orders relating to the company's
8 business, and may cancel the decision of the com-
9 pany or dismiss a member of the staff when the
10 decision or the activity of the member violates
11 the present treaty, the ordinances of both the
12 governments, or the contract of the company and
13 also when it mars public interests or disobeys
14 the orders of the supervising authorities."

1 Dropping to paragraph 11:

2 "The military authorities of both govern-
3 ments may give necessary military orders concerning
4 the business of the company and may also take neces-
5 sary steps regarding the institution of the company.

6 "The purport relating to the present item,
7 and the preceding fourth, fifth and sixth items are
8 prescribed in (a) the annexed paper of the secret
9 official exchange document, and (b) the necessary
10 matters concerning the secret official exchange docu-
11 ments will be prescribed in the secret command relat-
12 ing to the company of both the governments.

13 "Matters in addition to the stipulations
14 of the present treaty will be independently decided.

15 "Stipulations relating to the present art-
16 icle will be prescribed in a separate official ex-
17 change document according to the contents of the
18 Japanese commercial law and accessory ordinances."

19 Now, pointing out to the Tribunal what the
20 annexed document should contain:

21 "The Japanese and the Manchurian govern-
22 ments' business supervision, commands, and approval
23 relating to the company mentioned in the present
24 treaty shall be executed after being discussed by
25 the supervising authorities appointed by the two

1 governments, when opinions differ, it will be exe-
2 cuted according to the opinion of the Japanese super-
3 vising authorities.

4 "The highest military organs of Japan sta-
5 tioned in Manchuria and the highest military organs
6 of Manchuria, may give instructions to the company
7 regarding its business, when necessary, from a
8 military standpoint, and may at any time dispatch to
9 the said company a necessary number of men and in-
10 spect the communicating organs, the execution of
11 business, etc.

12 "The highest military organs of Japan sta-
13 tioned in Manchuria, and the highest military organs
14 of Manchuria shall possess the rights to employ
15 preferentially all personnel belonging to the said
16 company, to practice supervision and inspection when
17 necessary from the viewpoint of national defense or
18 the maintenance of public order, and to demand the
19 carrying out of necessary institutions from the mili-
20 tary standpoint, or to carry out such necessary meas-
21 ures by themselves.

22 "In accordance with the preceding two art-
23 icles, the highest military organs of Manchuria must
24 obtain previously, approval of the highest military
25 organs of Japan stationed in Manchuria when intending

1 to indicate an inspection or to make demands of the
2 said company."

3 I should like to make a correction in this
4 last paragraph. Line 7 should read "may give instruc-
5 tions" instead of "may make suggestions."

6 The prosecution desires to introduce in
7 evidence document No. 2411.

8 MR. BROOKS: If the Tribunal please, on
9 checking the original file here, there is no date
10 given on it whatsoever -- on the one that is put in
11 evidence. We have a date here -- shows July, 1939.
12 I think the prosecution should not insert into the
13 record of proceedings dates that are not shown on
14 the evidence that are placed in here without giving
15 us some explanation or the authority for it.

16 MR. COLE: Mr. President, here is another
17 instance in the current exhibit in which a MUTO is
18 mentioned but without any other name being shown. I
19 think the biographical data already in evidence will
20 show that this a different MUTO from the one accused.

21 MRS. LLEWELLYN: The prosecution anticipated
22 this query from the defense; and, in order not to
23 testify, we obtained a certificate from the Foreign
24 Office which I should like to introduce as the next
25 document.

1 THE PRESIDENT: Will you tender that ex-
2 hibit, Mrs. Llewellyn? Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 2411 will receive exhibit No. 232.

5 (Whereupon, prosecution's exhibit
6 No. 232 was received in evidence.)

7 MRS. LLEWELLYN: The certificate reads as
8 follows:

9 "I, SHIMODA, hereby certify that the docu-
10 ment marked IPS document 1014C and entitled 'Telegraph
11 and Telephone in Manchuria' is the decision of the
12 Cabinet made on 9 December, 1932, and that Agreement
13 on the establishment of the Japan Manchukuo Joint
14 Communications Company was concluded between Japan
15 and Manchukuo and signed by Nobuyoshi Muto, Japanese
16 Ambassador and Hsieh Chieh Shin, Minister for the
17 Foreign Affairs of Manchukuo at Hsin-ching on 26
18 March, 1933."

19 Signed "T. Shimoda"

20 The prosecution desires to introduce in
21 evidence document No. 1014-D. This is a Cabinet
22 decision dated 8 August, 1933. We offer this docu-
23 ment to prove that Japan planned to dominate and con-
24 trol Manchuria by formulating a guiding policy to-
25 wards that country.

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 1014-D is given exhibit No. 233.

5 (Whereupon, prosecution's exhibit
6 No. 233 was received in evidence.)

7 MRS. LLEWELLYN: The copies furnished to
8 the Tribunal have been corrected so far as the word
9 "directing" which has been changed to the word
10 "guiding" is concerned. The copies furnished to the
11 defense have not been so corrected.
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"Summary of the Guiding Policy towards Manchuria.

"The fundamental policy of the Japanese Empire of guiding Manchuria is based upon the spirit of the Japanese-Manchurian Protocol and it is to develop Manchuria into an independent nation possessing indivisible relations with the Japanese Empire.

"Essential Points.

"1. Japan's guiding policy towards Manchuria will endeavor to harmonize the race and to make them enjoy life and duty in accordance with the characteristics of Manchurian society and in respecting the dignities of independence and old customs, thus giving light and contentment to high and low, officials or civilians, so that all people will strive to complete the great task of founding an empire. During this period, it is of course necessary to maintain consistently the latent activities of the Japanese Empire's guiding powers.

"2. Although positive guidance is operated in matters relating to Manchuria's fundamental constitution, national defense, public order and foreign policy, basic matters important in carrying out Japanese-Manchurian economics, and in important internal affairs concerning the establishment of the foundation of the empire, other matters are entrusted to the liberal

1 activities of the authorities of Manchuria.

2 "3. Directions towards Manchuria shall be
3 executed substantially by Japanese officials under
4 the jurisdiction of the commander of the Kwantung
5 Army and the Ambassador of Japan residing in Manchuria
6 according to the system now in effect. As Japanese
7 officials must be the nucleus in the execution of
8 national affairs, the selection and nomination of the
9 officials must be appropriate, and every possible
10 measure must be made in order to convince them of the
11 present guiding policy, as well as to provide them
12 with a center of their activities and to maintain the
13 present system centered on the general affairs depart-
14 ment so as to facilitate the administration.

15 "4. Although Manchuria has a constitutional
16 monarchy as its ultimate aim, she will maintain the
17 present system for the time being, and the formal
18 constitution shall be enacted after deliberate con-
19 sideration.

20 "It shall be kept in mind that political par-
21 ties, or other political organizations in Manchuria,
22 must not exist for the time being.

23 "5. The Administration of Manchuria will
24 abolish extreme centralization, and respecting tra-
25 ditional local autonomy will endeavor to harmonize it

1 with centralism and reform of all systems will be
2 gradually advanced.

3 "6. The army and naval armament of Manchuria
4 shall be limited to that necessary for maintenance of
5 internal public order. Nevertheless, the necessary
6 defense equipment and marines towards the neighbor-
7 ing countries shall be completed gradually when
8 necessitated.

9 "7. Relative to Manchuria's maintenance of
10 public order, the inspective organizations must be
11 specially completed in accordance with the specialty
12 of the foundation of the empire and the internal and
13 external conditions of the said country, and must
14 strive with communication by the Kwantung Army to
15 ward off beforehand all internal and external movements
16 tending to destroy the nation. The ability of self-
17 defense, which is the special character of Manchurians,
18 must be utilized thoroughly concerning public order.

19 "8. The foreign policy of Manchuria is
20 founded on the foreign policy of our Empire which
21 is to secure the peace of the East and to uphold the
22 noble cause to the whole world, and she must act in
23 concert with this policy. Although the open door and
24 the principle of equal opportunity are maintained,
25 application is limited to matters which are not restricted

1 by the demands of national defense.

2 "9. The aim of Manchurian economy lies in
3 the national unification of Japanese and Manchurian
4 economies in order to establish securely the founda-
5 tion of our Empire's expansion of economic powers to
6 the whole world, and at the same time to strengthen
7 the economic powers of Manchuria, and also it must be
8 planned to guarantee improvement and equity of national
9 life.

10 "10. Co-existence and co-prosperity of
11 Japan and Manchuria is the spirit of Manchuria's
12 economical development, and although those which are
13 restricted by the demands of the national defense of
14 our Empire are put under our power, others lie within
15 the power of Manchuria and are adequately operated by
16 fair and open economic activities of nationals or
17 foreigners.

18 "11. As the transportation and correspondence
19 in Manchuria has an especially close relationship to
20 national defense and maintenance of public peace, it
21 is placed under the power of the Japanese government
22 and the earliest possible consolidating completion and
23 development of all establishments is desired.

24 "12. The finances of Manchuria, though con-
25 sidering the appropriateness of the people's responsi-

1 bility" -- and I correct that, please -- "must be
2 quickly established, and at the same time fulfill the
3 obligation of sharing the military expenses of the
4 army stationed in Manchuria. Adequate measures may be
5 taken on consideration of financial or other condi-
6 tions in Manchuria relating to the utilization and
7 collection of Japanese loans to China which concern
8 Manchuria.

9 "13. The education of Manchurians must be
10 directed with the object of making them conscious of
11 the indivisible relationship with Japan, to awaken in
12 them the pride of possessing a special mission of
13 creating peace in the East and to cultivate the ideal
14 of harmonizing the five races. Also, stress must be
15 laid on labor education, and business education must
16 be promoted,

17 "14. The system of laws must be quickly
18 completed and the organization must be perfected
19 respecting especially national characteristics and
20 customs, concerning the jurisdiction of Manchuria, and
21 to cultivate in all parts the good custom of obeying
22 the law, as well as to establish foreign confidence
23 so as to realize the gradual abolishment of extra-
24 territorial jurisdiction.

25 "(Reference)

1 "Upon deciding concrete plans based upon
2 present essentials concerning the guiding policy
3 towards Manchuria, it shall receive approval of the
4 Committee of the investigation of the Executive
5 Policy towards Manchuria and Mongolia, the Financial
6 Investigation Committee towards Manchuria, or the
7 Japanese and Manchurian Industrial Administating
8 Committee as usual when necessary, and those of
9 especially great importance must be decided upon by
10 cabinet meeting.
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1 The prosecution desires to offer in evidence
2 document No. 1014-E. This is a cabinet decision re-
3 garding Manchuria, dated 22 December, 1933.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution No. 1014-E
6 is given Exhibit No. 234.

7 (Whereupon, prosecution's Exhibit No.
8 234 was received in evidence.)

9 MRS. LLEWELLYN: The prosecution offers this
10 document to prove that Japan tried to dominate and
11 control Manchuria by making preparations to enforce a
12 Monarchic system of government in that country.

13 Reading:

14 "When we contemplate upon recent internal
15 conditions in Manchukuo, we cannot deny the fact that
16 although there is a tendency toward confidence amongst
17 the people brought about by the pervading of the unfalt-
18 ering resolutions of our empire and also by the develop-
19 ment of the maintenance of public peace, there exists
20 an apprehension amongst the Manchurian authorities,
21 and the people in general, for almost two years has
22 passed since the foundation of the nation, yet the dic-
23 tatorship of the transitional period exists, and what
24 form of government is to be adopted in the future has
25 not yet been decided. It seems that the Manchurian

1 The prosecution desires to offer in evidence
2 document No. 1014-E. This is a cabinet decision re-
3 garding Manchuria, dated 22 December, 1933.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution No. 1014-E
6 is given Exhibit No. 234.

7 (Whereupon, prosecution's Exhibit No.
8 234 was received in evidence.)

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15 conditions in Manchukuo, we cannot deny the fact that
16 although there is a tendency toward confidence amongst
17 the people brought about by the pervading of the unfalt-
18 ering resolutions of our empire and also by the develop-
19 ment of the maintenance of public peace, there exists
20 an apprehension amongst the Manchurian authorities,
21 and the people in general, for almost two years has
22 passed since the foundation of the nation, yet the dic-
23 tatorship as soon as possible, so as to remove such
24 apprehensions as are based upon the forms of government,
25 and this must be recognized as an adequate measure to

1 government is considering the swift reformation
2 to Monarchy from dictatorship as soon as possible,
3 so as to remove such apprehensions as are based
4 upon the forms of government, and this must be re-
5 cognized as an adequate measure to obtain a strong
6 stand among other nations when Manchuria is making
7 steady progress in the founding of the nation. But,
8 on the other hand, there can be anticipated evils
9 attending the enforcement of Monarchy, so on this
10 occasion it is desirable to our Empire that,
11 separate from the enactment of the constitution
12 and the Imperial House Law, preparations complying
13 with the following should be made, relating to the
14 enforcement of Monarchy in the said country, and
15 when preparations are completed, Manchukuo will be
16 directed to enforce the Monarchy.

17 "I. It must be made clear that the enforcement of
18 Monarchy is not a restoration of the Shin regime,
19 which was an autocracy of followers of the monarch,
20 but the foundation of national constitution of a new
21 Manchukuo, and all causes of hindrances to the de-
22 velopment of the Manchurian state affairs and the
23 execution of the national policy must be nullified,
24 especially to contribute to the strengthening and
25 expansion of the Japanese and Manchurian national

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2 is making steady progress in the founding of the nation.
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13 was an autocracy of followers of the monarch, but the
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15 and all causes of hindrances to the development of the
16 Manchurian state affairs and the execution of the nation-
17 al policy must be nullified, especially to contribute
18 to the strengthening and expansion of the Japanese
19 and Manchurian national defense power necessary to over-
20 come the international crisis which we may encounter
21 before long. Accordingly, the enforcement of the
22 Monarchy must act upon the following three essential
23 points.

24 "1. When enforcing the Monarchy, the constitution-
25 al system and all other important laws must be re-

1 defense power necessary to overcome the inter-
2 national crisis which we may encounter before long.
3 Accordingly, the enforcement of the Monarchy must
4 act upon the following three essential points.

5 "1. When enforcing the Monarchy, the con-
6 stitutional system and all other important laws must
7 be reinvestigated, the Board of State Affairs
8 strengthened, the council office improved and other
9 necessary reformatations must be made so that there
10 will be no hindrance or check-up on the development
11 of state affairs of Manchukuo and upon the execution
12 of our national policies.

13 "2. Basic reformation must be exercised upon
14 the internal structure of the present government,
15 especially upon the personnel, so that there will be
16 no violation of distinction in the Imperial Court
17 and so that the evils attending court politics may
18 be plucked out beforehand.

19 "3. It shall be kept in mind that though the
20 Monarchy will be carried into effect, there will be
21 no change in the policy or spirit of directing Man-
22 chukuo and that there shall be no hinderance what-
23 ever to the execution of national policies. For
24 this reason, existing conventions and agreements
25 between Japan and Manchukuo must be acknowledged

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2 the council office improved and other necessary reforma-
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8 internal structure of the present government, especially
9 upon the personnel, so that there will be no violation
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12 beforehand.

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14 Monarchy will be carried into effect, there will be no
15 change in the policy or spirit of directing Manchukuo
16 and that there shall be no hindrance whatever to the
17 execution of national policies. For this reason, exist-
18 ing conventions and agreements between Japan and
19 Manchukuo must be acknowledged by Manchukuo with the
20 realization of the monarchy as well as to make clear
21 the directing power of foreign policies and to arrange
22 an exchange of letters, the substance being that
23 inscribed in the additional document, between the
24 Ambassador to China Ashikari and the Minister of State
25 Affairs Tei.

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3 foreign policies and to arrange an exchange of
4 letters, the substance being that inscribed in the
5 additional document, between the Ambassador to
6 China Ashikari and the Minister of State Affairs
7 Tei.

8 "II. The drafting of the declaration of the
9 monarch's accession to the throne must be directed
10 under particular prudence and must make distinct
11 the true meaning of the Manchurian monarchy and the
12 indivisible relationship between Japan and Manchuria
13 as well as to take precautions to ward off possible
14 misunderstandings and evil propaganda of other
15 countries.

16 "III. Judging from our Empire's or other countries'
17 examples and the present conditions in Manchukuo,
18 the enactment and promulgation of the formal con-
19 stitution must receive every caution, so the in-
20 vestigation must be continued that it may be en-
21 forced at an appropriate time in the future."

22 Then follows the formal letters which were
23 to be exchanged between the two countries.

24 At this time I should like to ask the
25 Tribunal whether I should read those letters, or

1 "II. The drafting of the declaration of the monarch's
2 accession to the throne must be directed under particular
3 prudence and must make distinct the true meaning of the
4 Manchurian monarchy and the indivisible relationship
5 between Japan and Manchuria as well as to take pre-
6 cautions to ward off possible misunderstandings and
7 evil propaganda of other countries.

8 "III. Judging from our Empire's or other countries'
9 examples and the present conditions in Manchukuo, the
10 enactment and promulgation of the formal constitution
11 must receive every caution, so the investigation must
12 be continued that it may be enforced at an appropriate
13 time in the future."

14 Then follows the formal letters which were
15 to be exchanged between the two countries.

16 At this time I should like to ask the Tribunal,
17 whether I should read those letters, or proceed with
18 the next document.

19 THE PRESIDENT: No, do not read them.

20 MRS. LLEWELLYN: The prosecution presents in
21 evidence it's document No. 2412. This is a certificate
22 from the Foreign Office, and we offer it to prove that
23 the exchange of notes did take place between the
24 Japanese ambassador and the prime minister of Man-
25 chukuo on 1 March, 1934.

1 proceed with the next document.

2 THE PRESIDENT: No, do not read them.

3 MRS. LLEWELLYN: The prosecution presents
4 in evidence it's document No. 2412. This is a cer-
5 tificate from the Foreign Office, and we offer it to
6 prove that the exchange of notes did take place be-
7 tween the Japanese ambassador and the prime minister
8 of Manchukuo on 1 March, 1934.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 2412 received Exhibit No. 235.

12 (Whereupon, Prosecution's Exhibit No.
13 235 was received in evidence.)

14 MR. BROOKS: If the Tribunal please, I
15 don't see how a certificate -- that this form of
16 letter was adopted as the form to be used -- or
17 apparently, as it is also here set out, there is no
18 date set out except the official blank form of letter
19 to be used in correspondence between various officials
20 of the country, so that they will be courteous and
21 proper.

22 THE PRESIDENT: You could not have read the
23 certificate. It is complete on it's face and it re-
24 fers to the particular notes.

25 MR. BROOKS: The prosecution has the forms

1 THE PRESIDENT: Admitted on the usual terms.
2 CLERK OF THE COURT: Prosecution's document
3 No. 2412 received Exhibit No. 235.

4 (Whereupon, Prosecution's Exhibit No.
5 235 was received in evidence.)

6 MR. BROOKS: If the Tribunal please, I
7 don't see how a certificate -- that this form of letter
8 was adopted as the form to be used -- or apparently,
9 as it is also here set out, there is no **date** set
10 out except the official blank form of letter to be
11 used in correspondence between various officials of
12 the country, so that they will be courteous and proper.

13 THE PRESIDENT: You could not have read
14 the certificate. It is complete on it's face and it
15 refers to the particular notes.

16 MR. BROOKS: The prosecution has the forms
17 of the face of these.

18 THE PRESIDENT: Objection overruled.

19 MRS. LLEWELLYN: Mr. President, in order to
20 clear up any confusion as to the purport of these letters,
21 that is the reason this document is introduced -- to
22 show that the Japanese Government did design and plan
23 what the future would hold for Manchukuo.

24 MR. FURNESS: If the Tribunal would look at
25 these letters, I think they would see that they are

1 of the face of these.

2 THE PRESIDENT: Objection overruled.

3 MRS. LLEWELLYN: Mr. President, in order to
4 clear up any confusion as to the purport of these
5 letters, that is the reason this document is intro-
6 duced -- to show that the Japanese Government did de-
7 sign and plan what the future would hold for Man-
8 chukuo.

9 MR. FURNESS: If the Tribunal would look at
10 these letters I think they would see that they are
11 blank letters, blank dates, blank signatures -- al-
12 most entirely made up of blanks. Does Mrs. Llewellyn
13 mean that they were exchanged in that form or not.
14 If not, they are incomplete.

15 THE PRESIDENT: The objection has not a shred
16 of merit.
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3 that they were exchanged in that form or not. If not,
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1 MRS. LLEWELLYN: The prosecution desires at
2 this time to introduce in evidence document No. 1014F,
3 Cabinet Decisions of 20 March 1934.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 1014F will receive Exhibit No. 236.

7 (Whereupon, prosecution's Exhibit No.
8 236 was received in evidence.)

9 MRS. LLEWELLYN: We offer this document to
10 prove that Japan tried to dominate and control Man-
11 churia by unifying and developing the principal
12 industries of that country.

13 Section 4 relates to the control of important
14 branches of heavy industry, including iron and steel,
15 light metals, arms, and petroleum. I shall read cer-
16 tain portions of this document with respect to what we
17 wish to prove:

18 "I. The Administration Policy.

19 "Based on the fundamental policy of develop-
20 ing Manchukuo as an independent nation possessing an
21 indivisible relationship with Japan, and with the spirit
22 of co-existence and co-prosperity, the Japanese-Man-
23 churia Administration Policy will be established with
24 the stabilization and promotion of the living of the
25 people, establishing securely the base of Japan's world-

1 wide economic expansion and the strengthening of
2 Manchukuo's economic powers as its aims."

3 Dropping down to paragraph (1) under Section
4 II, "Summary of General Administrations":

5 "(1) The transportation, communication and
6 other enterprises in Manchukuo, restricted by the
7 demands of the Japanese Empire's national defense
8 will be anticipated of its speedy development under
9 the power and appropriate administration of the Empire."

10 Turning to page 3:

11 "The outline is as follows:

12 "(1) Enterprises of the following kinds will
13 be operated by special companies which hold a dominant
14 position among the said business in Manchukuo; as a
15 general rule these will be directly or indirectly under
16 the special protection and supervision of the Empire.
17 Though adequate administration according to this pur-
18 port will be exercised, the nationality of the said
19 company not yet established will chiefly be that of
20 Manchukuo."

21 Turning to page 5, section 4:

22 "The Principles of Control of Classified
23 Branches of Industries.

24 "It is expected that practical measures for
25 control of classified branches of industries should

1 be further discussed and promptly established. The
2 principles of control, however, are as follows:

3 "(1) Traffic and Communication.

4 "It is not only of utmost importance for
5 national defence as well as for maintenance of public
6 order to arrange and strengthen traffic and communi-
7 cation of Manchukuo, especially internal traffic
8 and communication facilities and those between Japan
9 and Manchukuo, and to render their operations reasonable,
10 but it is also quite essential for the development of
11 Manchurian economy and for the control of economy of
12 Japan and Manchukuo. Above all, special efforts should
13 be made to render railway and shipping freight rates
14 more reasonable.

15 "(2) General and Mining Industries.

16 " a) Iron and Steel Industry.

17 "It should be rapidly developed, keeping
18 close connections and in concert with the identical
19 industry in Japan.

20 " b) Light Metal Industry.

21 "Its rapid development should be expected
22 keeping connections with the previously arranged plan
23 of Japan.

24 " c) Petroleum Industry.

25 "Its rapid development should be expected.

1 " d) Substitute Liquid Fuel Industry.

2 "Its rapid development should be expected.

3 " e) Automobile Industry.

4 "Its rapid development should be expected,
5 keeping close connections and concert with the identi-
6 cal industry in Japan.

7 " f) Arms Industry.

8 "Its rapid development should be expected.

9 " g) Lead, Zinc, Nickel, Asbestos, etc. Ore
10 Mining Industry.

11 "Its rapid development should be expected.

12 " h) Coal Mining Industry.

13 "It should be developed with the object of
14 contributing to the utility of coal to various in-
15 dustries, by exercising strict control of the coal
16 mining industries of Japan and Manchukuo and by
17 bringing about smoothness of demand and supply in
18 both countries, as well as of increasing export of
19 Manchurian coal to other countries.

20 " i) Sulphuric Ammonia Industry.

21 "Its rapid development should be expected,
22 taking into consideration the agricultural demand of
23 Japan and Manchukuo as well as the present state of
24 progress of Japan's identical industry.

25 " j) Alkali Manufacturing Industry.

1 "Its rapid development should be expected,
2 in consideration of the demand of national defense
3 and the present state of progress of Japan's identical
4 industry.
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1 The prosecution desires to introduce in
2 evidence prosecution No. 887. This is the treaty
3 of the 10 June, 1936"between Japan and Manchukuo
4 concerning the Residence of Japanese Subjects, Taxation,
5 etc., in Manchukuo," together with the supplemental
6 agreement attached thereto.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution document
9 No. 887 will receive Exhibit No. 237.

10 (Whereupon, prosecution's Exhibit No. 237
11 was received in evidence.)

12 MRS. LLEWELLYN: We offer this to prove
13 that Japan concluded this Treaty with Manchukuo
14 in order that Japanese residents in Manchukuo enjoy
15 the same privileges of life and work, as those en-
16 joyed by Manchukuoans; especially those rights re-
17 lating to land.

18 Reading:

19 "Whereas the Government of Japan, in accordance
20 with the principle of the protocol between Japan and
21 Manchoukuo signed on the fifteenth of September of
22 the seventh year of Showa, have, for the purpose of
23 furthering the healthy development of Manchoukuo and
24 also of promoting and perpetuating the intimate and
25 inseparable relationship now subsisting between Japan

1 and Manchoukuo, decided to abolish, by progressive
2 stages, the right of extra-territoriality at present
3 enjoyed in Manchoukuo by Japan, and to adjust and
4 transfer the administrative rights over the South Manchur-
5 ia Railway Zone; and,

6 "Whereas the Government of Manchoukuo, appreciat-
7 ing this decision by the Government of Japan have, in
8 return recognized the necessity of ensuring and
9 enhancing the common prosperity of Japanese and Manchoukuo
10 subjects within the territories of Manchoukuo;

11 "Now, therefore, with reference to the right of
12 extra-territoriality and the administrative rights
13 over the South Manchuria Railway enjoyed in Manchoukuo
14 by Japan, the Government of Japan and Manchoukuo have
15 agreed at the first step as follows concerning the
16 residence of, and the enjoyment of various rights and
17 interests by, Japanese subjects, and the application
18 of the laws and ordinances of Manchoukuo concerning
19 taxation, industries, etc.

20 "Article 1.

21 "Japanese subjects shall be free within the
22 territories of Manchoukuo to reside and travel and
23 engage in agriculture, commerce and industry, and to
24 pursue callings and professions, whether public or
25 private, and shall also enjoy all the rights relating

1 to land.

2 "Japanese subjects shall not, in respect of
3 the enjoyment of all rights and interests within the
4 territories of Manchoukuo, be accorded less favorable
5 treatment than that which is or may be accorded to the
6 subjects of Manchoukuo.

7 "Article 2.

8 "Subject to the stipulation of the Supple-
9 mentary Agreement to the present Treaty, Japanese
10 subjects shall be governed within the territories of
11 Manchoukuo by the provisions of the administrative
12 laws and ordinances of Manchoukuo concerning taxation,
13 industries, etc.

14 "The Japanese Government agrees that, subject
15 to the stipulation of the aforesaid Agreement, the laws
16 and ordinances of Manchoukuo mentioned in the pre-
17 ceding paragraph shall be in force within the South
18 Manchuria Railway Zone on the principles of statutas
19 relia.

20 "In respect of the application of present
21 Article, Japanese subjects shall not, under any cir-
22 cumstances, be accorded less favorable treatment than
23 that which is or may be accorded to the subjects of
24 Manchoukuo."

25 I believe the remainder of that treaty is

1 unimportant. It is the supplementary agreement which
2 is important.

3 THE PRESIDENT: We will adjourn now until
4 half past nine tomorrow morning.

5 (Whereupon, at 1600, an adjournment
6 was taken until 0930, Thursday, 1 August 1946.)
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